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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

IN THE MATTER OF:
ILLINOIS POWER COMPANY,
SOYLAND POWER COOPERATIVE, INC.,
AND WESTERN ILLINOIS POWER COOPERATIVE

DOCKET NO. 50-461 OL

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(CONFERENCE CALL)
DATE: 21 SEPTEMBER 1984

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2 NUCLEAR REGULATORY COMMISSION

3 IN THE MATTER OF:
4 ILLINOIS POWER COMPANY,
5 SOYLAND POWER COOPERATIVE, INC.,
AND WESTERN ILLINOIS POWER COOPERATIVE

6 DOCKET NO. 50-461 OL

7 NUCLEAR REGULATORY COMMISSION

8 ROOM 405
9 4350 EAST-WEST HIGHWAY
BETHESDA, MD

10 (CONFERENCE CALL)

11 The Panel met, pursuant to Notice at 2:00 PM.

12 NRC STAFF MEMBERS PRESENT:

13 ADMINISTRATIVE JUDGES, ASLB: HUGH CLARK, CHAIRMAN
14 GEORGE FERGUSON
OSCAR PARIS

15 ATTORNEYS: EDWARD REIS, ESQ.
16 DICK GODDARD, ESQ.

17 UTILITY REPRESENTATIVES:

18 FOR THE ILLINOIS POWER CO.: SHELDON ZABEL, ESQ.
19 GEORGE EDGAR, ESQ.
JACK NEWMAN, ESQ.
20 C:D. FOX, ESQ.
FRANK SPANGENBERG, ESQ.

21 OTHER INTERESTED PARTIES:

22 FOR THE PRARIE ALLIANCE: JEAN FOY, ESQ.

23 FOR THE STATE OF ILLINOIS: ALLEN SAMELSON, ESQ.
24 GREIG SIEDOR, ESQ.

25 FREE STATE REPORTING INC.

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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

3 In the Matter of:)
 4 ILLINOIS POWER COMPANY,) Docket No.
 SOYLAND POWER COOPERATIVE, INCORPORATED) 50-461-OL
 5 and WESTERN ILLINOIS POWER COOPERATIVE)

6 Room 405
 4350 East-West Highway
 7 Bethesda, Maryland

8 The Panel met, pursuant to notice, at 2:00 p.m.
 9 on Friday, September 21, 1984.

10 APPEARANCES:

11 NRC STAFF MEMBERS PRESENT:

12 Atomic Safety and Licensing Board

13 HUGH CLARK, Administrative Law Judge,
 Chairman

14 GEORGE FERGUSON, Administrative Law Judge

OSCAR PARIS, Administrative Law Judge

15 DICK GODDARD, Esquire

EDWARD REIS, Esquire

16 UTILITY REPRESENTITIVES:

17 For Illinois Power Company:

18 SHELDON ZABEL, Esquire

19 GEORGE EDGAR, Esquire

JACK NEWMAN, Esquire

20 C.D. FOX, Esquire

FRANK SPANGENGERG, Esquire

21 OTHER INTERESTED PARTIES:

22 For Prarie Alliance:

23 JEAN FOY, Esquire

1 APPEARANCES (Continued)

2 For the State of Illinois:

3 ALLEN SAMELSON, Esquire
4 GREIG SIEDOR, Esquire

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1 P-R-O-C-E-E-D-I-N-G-S

2 JUDGE CLARK: All right.

3 This is Judge Clark speaking. Good day to
4 all of you. This telephone conference will be
5 recorded by a reporter. In order that the reporter
6 may have accurate information as to the subject matter
7 of the conference and the persons participating
8 therein I shall make a brief preliminary statement and
9 shall then ask other participates to identify
10 themselves.

11 This is a special pre-hearing conference in
12 the matter of Illinois Power Company, Scyland Power
13 Cooperative, Inc., and Western Illinois Power
14 Cooperative, Inc., (all here and after sometimes
15 called Applicants) who have requested that the U.S.
16 Nuclear Regulatory Commission grant an operating
17 license for Clinton Power Station, Unit 1.

18 The proceedings is being identified as
19 Docket No. 50-461 OL.

20 Atomic Safety and Licensing Board, to which
21 the matter has been assigned consists of
22 Administrative Judge Hugh K. Clark, Esquire;
23 Administrative Judge Dr. George A. Ferguson and
24 Administrative Judge Dr. Oscar H. Paris. All members
25 of the Board are participating in this conference.

1 I know we have been through this once but I
2 am not sure the reporter was taking it so I will ask
3 counsel for the staff to introduce himself and any
4 other members representing the staff.

5 MR. GODDARD: I am Richard J. Goddard,
6 Office of the Executive Legal Director.

7 JUDGE CLARK: And Mr. Reis?

8 MR. REIS: I am here, Mr. Reis.

9 JUDGE CLARK: What is your first name, Mr.
10 Reis?

11 MR. REIS: Edward Reis.

12 JUDGE CLARK: Edward Reis.

13 Now, Mr. Zabel, will you run through the
14 lawyers representing Applicant?

15 MR. ZABEL: I will, Your Honor. This is
16 Sheldon Zabel, for the Applicant along with my co-
17 counsel, Mr. C.D. Fox, Mr. George Edgar, Mr. Jack
18 Newman and the director of licensing for the company,
19 Mr. Frank Spangenberg.

20 JUDGE PARIS: Could I interrupt for a
21 moment?

22 JUDGE CLARK: Yes.

23 JUDGE PARIS: The court reporter needs to
24 get the spelling for Mr. Fox and the company
25 representative for Mr. Zabel.

1 MR. ZABEL: It is Fox, F-O-X, and Mr.
2 Spangenberg is S-P-A-N-G-E-N-B-E-R-G.

3 JUDGE CLARK: Thank you.

4 Of the Interveners, Prarie Alliance, the
5 representative is Miss Jean, J-E-A-N, and the last
6 name is F-O-Y, Foy.

7 MR. SAMELSON: Mr. Samelson for the State,
8 Allen Samelson, A-L-L-E-N S-A-M-E-L-S-O-N.

9 JUDGE CLARK: And you have Mr. Greig --

10 MR. SIEDOR: Siedor, Your Honor. The first
11 name is spelled G-R-E-I-G; the last name is spelled S,
12 as in Sam, I-E-D, as in David, O-R.

13 JUDGE CLARK: Thank you all.

14 For reasons known to all of the parties and
15 detailed in an August 1984 report entitled "Summary of
16 Quality Improvement and Affirming Actions for Clint
17 Power Station" prepared by I. inois Power Company,
18 there's been a delay in estimated completion date for
19 this power station. However, a fuel loading date of
20 January 1986 is now projected.

21 The purpose of this special prehearing
22 conference is to set dates for further action looking
23 toward a hearing and a date for the hearing itself on
24 contentions before the Board.

25 By a letter dated September the 11th, 1984,

1 counsel for the Applicant advised the Board of
2 discussions between the parties and requested this
3 special prehearing conference. The letter contained
4 nine numbered paragraphs relating to proposed
5 schedules and reported on meetings among the parties
6 seeking to reach agreement as to the scheduling of
7 further proceedings before this Board.

8 Before discussing the various items in the
9 letter of September the 11th, 1984, I must advise you
10 that, after discussion, the Board is unanimously of
11 the opinion that partial initial decisions based on
12 two separate hearings is counterproductive. On about
13 April the 15th, 1985, appears to be a suitable date to
14 begin an evidenciary hearing on all contentions.

15 The bases of this conclusion include the
16 fact that contention one which relates to emergency
17 planning consists in a major part with dealing with
18 planning on all site matters. The proposed first
19 hearing in January of 1985 was to cover a separate
20 hearing on emergency planning on the site itself. We
21 see no advantage in holding this separate hearing on
22 what is relatively a small part of contention one.

23 As to contention two, QA and QC --
24 management and technical qualifications of Illinois
25 power in August 1984 both summary of quality

1 improvements in confirming actions (QICA) appears to
2 present a reasonable assurance that IPE has added any
3 hopes --

4 However, a program is only effective if it
5 is properly carried out. The opinion of the Board,
6 January 1985 is too soon to accumulate evidence that
7 the program is working as intended. therefore, we do
8 not favor in having a self-assuring on contention two.

9 Contention three which relates to control
10 and design apparently is not really ready for hearing.
11 Mr. Paris has indicated according to the Applicant's
12 letter as not being willing to go to hearing until
13 April 1985 and has also reported to the circumstance
14 to file a motion for summary judgment on February 28,
15 1985.

16 In view of these thoughts and considering
17 the amount of really additional work in writing two
18 opinions, the Board has come to the conclusion that we
19 will have one hearing only and the Board is willing to
20 have that hearing begin on April 15, 1985.

21 At this point I would like very much to hear
22 from Applicant a report on the status of the emergency
23 planning for the Clinton plant. Mr. Zabel, can you
24 fill me in on that?

25 MR. ZABEL: Yes, Your Honor, I can.

1 The on site emergency plan has been
2 completed and has either gone to the staff or is about
3 to go to the staff. It has gone to the staff for
4 review. The revised evacuation time study passes onto
5 the staff for review. We do feel, Your Honor, as to
6 contention one that the on site/off site separation is
7 a logical and possible one and our view generally was
8 to get as much of this done as early as possible for
9 it.

10 JUDGE CLARK: Well, we appreciate your views
11 on that, Mr. Zabel, but we feel that with based on
12 having three contentions although we admit that there
13 are a number of subcontentions that has divided
14 hearing and partial initial decisions is really not
15 justified. We thought about this very carefully and
16 talked about it. Maybe we should go that way.

17 MR. ZABEL: Well, Your Honor, may I pose as
18 an alternative to go to hearing on part of the
19 contention in January but only one decision. The
20 hearings on the off site plan we all recognize could
21 not be held until the State has completed its part of
22 emergency planning.

23 JUDGE CLARK: Right.

24 MR. ZABEL: The State's current schedule for
25 that is such that that cannot be done probably before

1 April. But we're very concerned that waiting that
2 long when we believe we can go to hearing on
3 contention two earlier and it's my latest
4 understanding the staff believes it can go to hearing
5 on contention three earlier would expedite even a
6 single decision and expedite not interfering with the
7 fuel loading date by getting those hearing matters if
8 not the decision on them out of the way earlier.

9 JUDGE PARIS: This is Paris.

10 Say with regard to issuing a couple of
11 partial, initial decisions I would like to observe
12 that the Big Rock Point Board attempted that or did
13 that a couple of years ago and it was chastised by the
14 appeal board who told us to wait until we had finished
15 both hearing sessions and write one decision.

16 MR. ZABEL: Yes, Your Honor.

17 This is Sheldon Zabel again. That's why I
18 modified my suggestion to say that we could have the
19 hearing in January and those matters ready for hearing
20 but wait for a single decision of the Board after the
21 conclusion of the off site hearings in April.

22 JUDGE PARIS: Could we hear from staff and
23 the other parties?

24 MR. GODDARD: Yes.

25 This is Mr. Goddard. I will pose there are

1 not yet any decisions remaining on site planning which
2 any of the staff would take for work. Among those I
3 do note and I verified this morning that Illinois
4 Power has not yet completed its emergency preparedness
5 pamphlet is certainly one of the items that could have
6 covered in a preliminary hearing. As to the
7 contention number two, the staff would -- that --

8 JUDGE PARIS: Mr. Goddard, you're not coming
9 through very clearly here for the reporter. Try that
10 again, please, just the last sentence.

11 MR. GODDARD: All right, sir.

12 The staff would observe that with regard to
13 contention two, there have been discussions with a
14 view of the settlement and while the parties certainly
15 cannot rely on possibly of a settlement as a reason to
16 postpone otherwise burden scheduling of the hearing,
17 the staff would also support the viewpoint expressed
18 by Judge Clark that it may be too early to tell with
19 regards to certainly the aspect of the quality
20 recovery program.

21 I note at this time that the -- January '86
22 and my discussions with members of the staff lead me
23 to believe that if they resolved it in any way it
24 would be later and not sooner than that date. The
25 applicant may be able to provide some information with

1 regards to the so-called negative float which is
2 presently enclosed in that figure and resulted in a
3 study by a -- which indicates that there are a
4 substantial number of -- hours of labor time to be
5 applied to the project in order to make that date
6 which were not -- earlier.

7 JUDGE PARIS: Which were not what?

8 MR. GODDARD: Were not earlier accounted for
9 for the knowledge of staff counsel.

10 JUDGE PARIS: Would you spell Ebasco for the
11 reporter?

12 MR. GODDARD: It's spelled E-B-A-S-C-O, sir.

13 JUDGE PARIS: Okay.

14 MR. GODDARD: Ebasco Services.

15 JUDGE PARIS: Thank you.

16 JUDGE CLARK: Mr. Hugh Clark speaking.

17 Mr. Goddard, are you suggesting that there
18 is a highly reasonable probability that there may be
19 some slippage in loading time?

20 MR. GODDARD: I'm not suggesting an answer.
21 I'm suggesting that based on my experience in nuclear
22 licensing hearings and bits of information which I've
23 -- the members of the staff that February '86 may be
24 an optimistic estimation of fuel loading dates
25 requested -- I would certainly give the applicant

1 every opportunity to respond and I would appreciate
2 any figures which they might have which would deal
3 with that.

4 I will also note, all of the parties in this
5 case today have been highly cooperative with regard to
6 negotiations and settlements, that negotiations and
7 discussions are under way with regard to the remaining
8 contention that I'm somewhat of a loss to understand
9 the apparent urgency with which Applicant is proposing
10 a licensing schedule, an evidentiary hearing schedule.

11 Again, I would return the ball to the
12 Applicant's court for further comment on those
13 subjects. Well, I've always wanted to hear from the
14 State of Illinois.

15 JUDGE CLARK: Mr. Samuelson, do you have
16 some comments?

17 MR. SAMUELSON: Yes, thank you, Judge Clark.

18 We would also support a scheduling of all
19 hearings in April as the Board has expressed its
20 preference. We also believe that additional time is
21 needed to see what develops as a result of the changes
22 in the quality assurance program that outlined in the
23 report that's been mentioned.

24 In addition, there has been a fair amount of
25 discussion with respect to settlement of contention to

1 and the State anticipates that those discussions will
2 continue. I think scheduling the litigation of
3 contention two for January 1985 may prove
4 counterproductive to those settlement discussion.

5 JUDGE CLARK: Thank you very much.

6 MR. SAMUELSON: In addition, I would point
7 out with respect to the fuel load date, in the
8 submittal Mr. Zabel provided to the Board and the
9 parties by cover letter dated August 3, it is noted
10 that the company's own analysis shows that the -- one
11 of its milestones, the reactor water cleanup is about
12 53 days behind schedule but that the target for fuel
13 load remains at the January '86 date.

14 I would point to that as supporting Mr.
15 Goddard's comments that the fuel load if it changes at
16 all appears to be changing toward an extension rather
17 than a shortening of that date.

18 JUDGE CLARK: Ms. Foy?

19 MS. FOY: I would agree --

20 JUDGE PARIS: Speak more -- could you speak
21 a little more loudly and slowly, please?

22 MS. FOY: Okay.

23 I -- hearing --

24 JUDGE PARIS: The reporter is not getting
25 you. The connection perhaps is bad. Please, try it

1 once again, speaking as close to the telephone as you
2 can and as slowly and loudly as you can.

3 MS. FOY: Prarie Alliance agrees to the
4 April -- can you hear me?

5 JUDGE PARIS: Just a minute. Let me talk
6 with the reporter.

7 MS. FOY: Prarie Alliance agrees with the
8 April 15 date for contention one for the same reason
9 the Board has mentioned plus we feel like two hearings
10 are counterproductive. On site and off site parts are
11 two interrelated --

12 JUDGE PARIS: She said that two hearings are
13 counterproductive and the on site and off site are
14 interrelated --

15 JUDGE CLARK: Well, we're told the --
16 variable and you seem to be standing alone.

17 MR. ZABEL: Sheldon Zabel, Your Honor.
18 May I have an opportunity to respond?

19 JUDGE CLARK: You certainly may.

20 MR. ZABEL: Thank you, Your Honor.

21 First, let me say that on the scheduling
22 question that Mr. Goddard raised, we did last report a
23 53 day negative flow. The company certainly hopes to
24 pick that up. But I think it's far more significant
25 looking at the history of the licensing proceedings to

1 recognize that it's the potential if you will balloon
2 towards the end. The danger of things developing that
3 may not be known now could adversely impact the
4 schedule.

5 We hope to recover the 53 days but even if
6 that stays the same, the schedule we propose has very
7 little margin in it but completing the hearing, the
8 findings of fact that have to be submitted, decision
9 by Your Honor with respect to the deadline of the fuel
10 load date.

11 On the specific contention, as to
12 contention two, I'm in full agreement with Your Honor
13 that the program reported in what is known as the QICA
14 report must be implemented but we have every intention
15 and we believe we will be prepared to present the
16 implementation, the results of the implementation of
17 those programs well in time for a January hearing.

18 On contention one the issues are discrete we
19 believe between an on site and off site proportion.
20 On contention three which is probably going to be
21 restated as my letter indicated we were working on
22 that with the Attorney General, it will be reasonably
23 specific technical issues that can be litigated I
24 think relatively efficiently and by splitting the
25 hearing.

1 While I am not fond of that either, Your
2 Honor, we think it is essential that if we can do
3 that, the parties can file their proposed findings.
4 On those contentions, the Board can be underway to a
5 hearing even though it would only issue a single
6 decision following the April hearing.

7 My concern of waiting to April to litigate
8 these issues is they may take a great deal of time to
9 litigate, to get the findings in and you're really
10 talking only eight months to a fuel load date. It
11 seems to us that that is a very tight schedule if
12 everything is put off until April.

13 MR. GODDARD: This is Mr. Goddard.

14 Did I interrupt you, Mr. Zabel?

15 MR. REIS: No, this is Mr. Reis.

16 MR. GODDARD: I don't mind interrupting you,
17 Mr. Reis.

18 Mr. Clark, may I be heard briefly in
19 response to Mr. Zabel's comment?

20 JUDGE CLARK: You may but let's hear from
21 Mr. Reis first.

22 MR. REIS: Mr. Chairman, I want to remind
23 the Board that the regulations themselves look for
24 determinations on on site emergency planning and
25 perhaps off site emergency planning at different times

1 in that they allow some low power permission to load
2 fuel and low power operation when we're satisfied that
3 on site emergency planning is proper and the Board is
4 satisfied that it is proper whereas to get full fuel
5 load and full power -- rather full power you have to
6 of course have full off site emergency planning in
7 place and that's recognized in 5047(c) and (d).

8 So I wanted to make sure the Board had that
9 in mind and although we dislike -- hearings as much as
10 anyone else, the Commission to some extent in setting
11 out those regulations has indicated that issues
12 involving off site emergency planning sometimes must
13 go later.

14 The other thing I would like to say after
15 hearing everyone here is that we of course recognize
16 the short time span involved should the April 15 date
17 be the date. That date perhaps could be moved up
18 some. But whatever date is chosen the Board should at
19 this point make it very clear and set a date, a firm
20 date, and go to that date.

21 The Applicants as the intervenors as the
22 staff are entitled to know when they are going to go
23 to hearing so that everybody can be gearing up for a
24 date that will not slip. Eight months is a short
25 time. Perhaps we could make it like essentially for

1 the safety hearings and the on site matters move it up
2 maybe six weeks or so, in that way have a firm date
3 there.

4 The off site emergency matters can then very
5 shortly follow. They would almost be back to back,
6 maybe a few weeks between them and we could wrap it
7 up.

8 MR. GODDARD: This is Mr. Goddard.

9 I would suggest this and I will recognize
10 one thing that Mr. Reis said very clearly. I think
11 the Board should have a fixed date that all parties --
12 a hearing. I will point out although it's not being
13 required that this case has a very good history of
14 resolving itself through negotiations between the
15 parties and I would be very frank to recommend that
16 the Board reconsider a fixed hearing date in favor of
17 an earlier date if it turns out, negotiations and
18 discussions between the parties have reached an
19 impasse and are otherwise at a standstill.
20 Accordingly, I would support a setting of an April 15
21 hearing date at this time with the assumption that the
22 parties are going to continue to negotiate in good
23 faith towards the settlement of all issues where all
24 necessary actions have been taken by the parties
25 and --

1 JUDGE PARIS: All necessary what?

2 You're breaking up again.

3 MR. GODDARD: All necessary actions have
4 been taken by the parties. NRC staff questions the
5 applicant, timely and complete responses thereto in
6 such a manner that in the event associations are able
7 to -- the posture of the case that perhaps an earlier
8 hearing date might be appropriate.

9 To the extent that all outstanding issues
10 would be litigated April 15th may not permit excessive
11 amount of slack but it is also not the opinion of this
12 counsel enough to put these hearings in the critical
13 path to licensing. Accordingly, I think the parties
14 should be willing to accept the date of April 15th
15 with the proviso negotiations toward settlement of any
16 items on which material and information is fully
17 available to continue whether it is geared toward that
18 goal.

19 MR. CLARK: Well, there is one other factor
20 I would like to put in maybe by asking Ms. Foy. .

21 Before we go to hearing we want the names
22 the experts of parties who are going to testify and we
23 want a written testimony provided to the Board.

24 Ms. Foy, do you have your experts picked?

25 Ms. Foy?

1 MS. FOY: Yes, --

2 MR. GODDARD: We can't hear you, Ms. Foy.

3 Shout again, please.

4 MS. FOY: Prairie Alliance, considering
5 cross-examining --

6 MR. GODDARD: I can hear part of this Judge
7 Paris. I would be happy to interpret if I may.

8 I believe --

9 JUDGE PARIS: We would rather have a literal
10 translation if you can provide it, Mr. Goddard.

11 MR. GODDARD: Pardon me?

12 JUDGE PARIS: Go ahead.

13 MR. GODDARD: I was going to say, I believe
14 that what Ms. Foy was saying is that the Prairie
15 Alliance may choose to base its case upon cross-
16 examination witnesses for the other party.

17 JUDGE PARIS: Is that correct, Ms. Foy?

18 MS. FOY: Yes.

19 MR. CLARK: Are you telling us that you do
20 not plan to have any direct testimony?

21 MS. FOY: No, I didn't say that. I said
22 that at this point we are not sure.

23 MR. CLARK: Well, you know even if we have
24 the entire hearing in April, we are going to have to
25 give you dates where you must tell us who your experts

1 are going to be --

2 MS. FOY: Oh, I understand you.

3 MR. CLARK: And then a little later date
4 when their testimony, direct testimony, has to be in
5 writing to all the parties.

6 MS. FOY: Yes, I am aware of that.

7 MR. CLARK: Well, now if we come to January
8 those dates are right around the corner.

9 MS. FOY: Yes, we are aware of that. That
10 is one reason why -- can you hear me?

11 MR. CLARK: Yes.

12 MS. FOY: You were concerned about having
13 contention one litigated, two parts, when the off site
14 State documents are going to be issued in February and
15 we felt like that was a difficult -- we didn't know if
16 that was the best way to do it when you are doing part
17 of the contention onsite and then -- where you might
18 have --

19 JUDGE PARIS: And then have what?

20 MS. FOY: Might have State witnesses
21 testifying in April.

22 JUDGE PARIS: Ms. Foy, we are not
23 understanding you here with the court reporter. Could
24 you shout again, please?

25 MS. FOY: I am shouting.

1 JUDGE PARIS: Okay, I'm sorry.

2 MS. FOY: Mr. Goddard, can you hear me?

3 MR. GODDARD: Fairly well.

4 MS. FOY: What I was trying to tell the
5 group is that we feel like there may be State
6 witnesses we might want to cross-examine that won't be
7 coming until the off site hearing that might have --

8 MS. GODDARD: Okay, let me give that --

9 This is Mr. Goddard. Ms. Foy says that she
10 feels that they may well wish to cross-examine the
11 State of Illinois witnesses who would not be available
12 until the April hearing timeframe.

13 MS. FOY: That is one reason why we feel
14 like that one hearing on contention one would more
15 consolidate.

16 JUDGE PARIS: What was that again? Mr.
17 Goddard, did you get that?

18 MR. GODDARD: The reason that the Prairie
19 Alliance feels that a single consolidated hearing on
20 contention one might be more appropriate.

21 MR. CLARK: Is there anyone else who wishes
22 to express an opinion?

23 MR. ZABEL: Yes, Your Honor, Mr. Zabel is
24 here.

25 MR. CLARK: All right.

1 MR. ZABEL: First, I agree with Mr. Reis'
2 comment that it is essential that all the parties have
3 a firm date at this point. I also agree with his
4 comment as to the regulatory setting for an emergency
5 planning contention -- More significantly, Your
6 Honor, Mr. Goddard is quite right, we have narrowed
7 the contentions in this case from some dozen or better
8 down to three. We have every intention of continuing
9 our discussion with the State of Illinois in the
10 intervenors but my concern and my client's concern is
11 that that is about a \$3 billion investment down there
12 with a company unlike some in the nuclear field, they
13 cannot continue with unnecessary delays and I would
14 not want to put the hearing process into the posture
15 of further delaying the licensing operation of that
16 plant.

17 I think it is reasonable and essential that
18 those portions of the contention, all of two, all of
19 three and the on site portion of contention one be set
20 for hearing very promptly. Mr. Reis' suggestion,
21 which I believe would be about March 1, I suppose, is
22 later than I would like to see it but it is certainly
23 better than April 15th which I am deeply concerned
24 will be much too late.

25 And I was informed by staff this morning

1 that they thought they would be ready to go to
2 hearing, for instance, on contention three earlier and
3 the State had agreed to my letter of September 11th,
4 which I attempted to reflect everyone's position had
5 suggested a February 15th date on contentions two and
6 three.

7 MR. GODDARD: This is Mr. Goddard. I will
8 state with regard to what you have just said, Mr.
9 Zabel, that the staff, meaning myself, -- I indicated
10 to you this morning that we would be ready to litigate
11 but we did not know that our position would be
12 favorable to the Applicant with regard to contention
13 three.

14 As a matter of fact, the Applicant owes us
15 certain reviews on some of the subject matter of
16 contention three as proposed to be revised by
17 discussions between the State of Illinois and Illinois
18 Power Company.

19 The staff will always have a position for
20 litigation but it is not necessarily going to be one
21 based upon total resolution of the issues presented by
22 a better contention.

23 JUDGE PARIS: Mr. Zabel, you don't want to
24 go to trial with staff on the other side, do you?

25 MR. ZABEL: I certainly would not like to do

1 that, Your Honor. We do owe the staff certain
2 information. We are on a schedule to get that
3 material to the staff, in fact, in time for a January
4 15th hearing and it was my understanding the staff
5 reviewers would be able to complete that review in
6 time for a January 15th hearing.

7 MR. GODDARD: We would certainly complete
8 the review but not having seen it we do not know
9 whether the quality or the completeness are such that
10 the staff would prefer to proceed the litigation.

11 It is not that the staff is able to take a
12 position on a subject area prior to the 15th of April,
13 our positions are not carved in stone. We would
14 certainly reconsider our litigation division at that
15 time.

16 MR. ZABEL: I think -- this is Mr. Zabel,
17 again -- Your Honor, that whenever there is an
18 unresolved issued with the staff that is always a risk
19 an Applicant takes. We understand that risk. We hope
20 to be able to submit material and information to the
21 staff to satisfy them on those concerns and at a
22 schedule with the staff reviewers that would give us
23 an answer to that.

24 MR. SAMELSON: Okay.

25 This is Allen Samelson, if I may jump in

1 here between the company and the staff to request that
2 the Board consider that while the staff may be
3 reviewing company submittals and presumably those
4 submittals on the control room contention would be
5 submitted to the State and intervenor simultaneously
6 with their submission to the staff.

7 We would ask the Board to consider that the
8 intervenors also need time to consider both the
9 Applicants and the staff's responses or those
10 submissions rather and that the Board take that
11 consideration into account in scheduling the
12 commencement of this hearing.

13 MR. CLARK: All right.

14 Now, at this time stage if we were actually
15 physically together the Board would withdraw but since
16 we are not I am going to poll the Board to hear what
17 we say.

18 Judge Paris, what is your vote?

19 JUDGE PARIS: Well, I think January is
20 premature. I think a March -- the April 15th
21 certainly is not premature and I think that if we
22 could go to hearing in March it might be a more
23 comfortable time for all of us.

24 MR. CLARK: Judge Ferguson?

25 JUDGE FERGUSON: May I ask what would

1 transpire or what kind of information would be
2 available to us after January but before March that
3 would enable us to fix a date for the hearing, a date
4 certain for the hearing, at that time. To say what I
5 have just said in a different way, there has been a
6 request for a fixed date at this time for the hearing.
7 My question is, is it reasonable to suspect that at a
8 later time after January, which I think we all agreed
9 with the possibility of one exception, is premature
10 and the first of March or sometime early in March that
11 would enable us to fix a date certain for the hearing
12 sometime in that time interval.

13 MR. REIS: Judge Ferguson, this is Mr. Reis,
14 and I was the one who made the suggestion of perhaps
15 six weeks earlier that April 15th might be
16 appropriate. The thing is, if there is material
17 outstanding from the applicants particularly on
18 contention three and contention two really there has
19 to be a little more specificity. The parties are
20 getting together to do that.

21 I think with the additional time and getting
22 the material and I think the Applicant's material is
23 suppose to be submitted about a month from now on
24 contention three. It will give the staff the
25 opportunity to fully review that material, get

1 together, publicize their review and get it out and
2 give the reasonable time necessary for everyone to
3 gear up. And I think it is just -- I can't say --
4 point to a particular document or a particular time.
5 It is just a feeling of how long it takes to do work
6 and the extent to which our review is complete, the
7 extent to which we have information and the extent to
8 which we want to narrow and more focus the quality
9 assurance matter.

10 JUDGE PARIS: Mr. Reis, do you believe that
11 staff will have sufficient time to fully review
12 everything and publish its results for a March
13 hearing?

14 MR. REIS: I do.

15 MS. FOY: This is Ms. Foy, can I say
16 something?

17 MR. CLARK: Yes, You may.

18 JUDGE PARIS: Speak loudly, please.

19 MS. FOY: Okay.

20 I was going to remind the Board that the
21 State of Illinois plans to put out their emergency off
22 site portion of contention one in February.

23 JUDGE PARIS: Mr. Goddard, could you
24 translate for us, please?

25 MR. GODDARD: Ms. Foy indicates that she

1 understands that the State of Illinois is going to put
2 out its off site emergency plan in February 1985.

3 MS. FOY: This makes me wonder about where
4 we schedule contention one because we planned to make
5 it April because we do the 29th of February. So we
6 may have to, maybe, put contention one toward the end
7 of the hearing. We don't know when in February --

8 JUDGE PARIS: Mr. Goddard, could you repeat
9 it for us, please?

10 MR. GODDARD: Yes. Ms. Foy assumes that
11 April would be a good date for emergency planning
12 hearings based upon the issuance of that document in
13 February '85.

14 MR. REIS: This is Mr. Reis. She also
15 stated that she would wish that perhaps the hearing on
16 emergency planning on contention one, if the hearings
17 are scheduled in March, to be at the end of the
18 schedule so that -- I presume, so that she would have
19 sufficient time to review the February document.

20 JUDGE PARIS: Does anyone know when in
21 February the State document will be issued?

22 MR. ZABEL: This is Mr. Zabel, Your Honor.
23 We have been informed by the Illinois Emergency
24 Services and Disaster Agency that that is scheduled
25 for mid-February and as far as I am aware today they

1 are on that schedule and working on it.

2 MR. REIS: Perhaps everyone should accept a
3 compromise to very early April.

4 MR. ZABEL: No. This is Mr. Zabel. I
5 reluctantly am willing to accept Mr. Reis' suggestion
6 of six weeks earlier than April 15th, about March 1,
7 and even to put contention one as the last issue to be
8 litigated though I still view on site and off site
9 matters as very discrete but April 1 I am very
10 concerned would be too late and to respond to Judge
11 Ferguson, I believe there will be, as Mr. Reis has
12 indicated, significant additional materials on
13 contention three on on site on contention one at that
14 point and on contention two at that point there will
15 be a good deal further materials available and that
16 March 1 would certainly have significant development
17 between January and March 1, we hope even before that,
18 for contentions two, three and the onsite portion of
19 contention one.

20 JUDGE PARIS: This is Paris. It does not
21 seem very reasonable to me to expect to parties to
22 work on the State document during the week or so the
23 hearing is going on and count that time as review
24 time. If the State document does not come out until
25 February 15th, Mr. Samelson said mid-February, I will

1 pick that, then there are two weeks available for
2 review before the hearing would start. Maybe that is
3 enough time but maybe it is not.

4 But I don't think we could count the week of
5 the hearing as additional review time. That doesn't
6 seem reasonable to me.

7 MR. REIS: Judge Paris, this is Mr. Reis
8 again. Of course, the State document I don't suppose
9 and I am not -- and I can't see how it would
10 particularly reflect on onsite planning. And it is
11 the onsite planning that we are talking about going
12 forward with in the March period.

13 MR. CLARK: No, I thought we were trying to
14 move it all up to the March date.

15 MR. REIS: I see, all of it. Well, I don't
16 know that would be hard because we do have to wait for
17 FEMA's findings and I don't know when FEMA's findings
18 are coming. I think we can't look to them before
19 April.

20 MR. ZABEL: This is Mr. Zabel, just to
21 follow on Mr. Reis' comment. It seems to me that the
22 on site is basically Illinois Power and NRC staff
23 matter while the off site is primarily the burden of
24 the State of Illinois and FEMA which is part of the
25 reason those two become discrete.

1 The April 15th date of off site is probably
2 a good date. But it does seem to me that the
3 remainder can be at least March 1 and while I am
4 sympathetic to Ms. Foy's concern to the extent that
5 she may have people who wish to cross-examine on the
6 off site, they would have to be there at whatever
7 point off site is being discussed because of the
8 discreteness of those issues, whenever that is, it
9 should not make much difference.

10 JUDGE CLARK: Judge Clark speaking.

11 It would help me in my consideration of an
12 earlier date book, a partial hearing if I had a
13 commitment from all parties that they would not take
14 depositions of witnesses prior to the hearing. I have
15 to allow them time to do that. Unless the parties all
16 agree that they are -- don't intend to take
17 depositions.

18 What's your feeling on that, Mr. Zabel?

19 MR. ZABEL: Well, Your Honor, we had every
20 intention of having that done by November 15th,
21 assuming that we had the list of witnesses from the
22 State and the Interveners on the date on my letter,
23 which was October 15th.

24 JUDGE CLARK: Mr. Goddard, are you going to
25 have those names by then?

1 Mr. Goddard?

2 MR. GODDARD: This is Mr. Goddard.

3 I don't believe there was a request that the
4 Staff identify which -- by that at this time the Staff
5 is not able to identify its expert.

6 JUDGE PARIS: When will the Staff be able to
7 identify its witnesses?

8 MR. GODDARD: Mr. Reis, can you speak to
9 that, I am presently unable to.

10 We can identify some of them at this time.
11 We're certainly unable to identify a number of the
12 expert witnesses with regard to emergency planning and
13 quality assurance. Based upon the fact Staff is
14 planning several reviews of -- QA, QC area.

15 MR. REIS: That's true. We cannot at this
16 time do that, and I cannot give you a firm date when
17 we can.

18 MR. ZABEL: Judge Clark, Sheldon Zabel.

19 If it will help, the applicants have no
20 intention of these -- the deposing Staff witnesses,
21 only the Intervener's witnesses. Now, I cannot speak,
22 obviously, for the Interveners.

23 MR. GODDARD: This is Mr. Goddard.

24 To that extent, the Staff would probably
25 notice depositions of the Intervener's expert

1 witnesses on contention three and possibly contention
2 two on this point.

3 At this time I do not foresee a need for
4 depositions of a State of Illinois or Intervener
5 witnesses on contention one.

6 MR. SAMELSON: This is Allen Samelson.

7 We have agreed to a completion of
8 depositions of the -- on any expert witnesses that are
9 identified and to complete those depositions by
10 November 15th.

11 Of course that necessarily excludes the
12 Staff's witnesses since they won't be ident --
13 apparently won't be identified by the October 15th
14 date that the Applicant and the State has stipulated
15 to.

16 But we -- the State can agree to completion
17 of depositions of Applicant's witnesses by the
18 November 15th date, but we can't do the same for --
19 for obvious reasons with respect to the Staff's
20 witnesses.

21 I think we may need to have two deadlines
22 for the completion of discovery.

23 JUDGE CLARK: Well, you see, that was part
24 of my problem. If the Board is wished to take
25 depositions of the witnesses, they can't do it till

1 they know who they are.

2 JUDGE PARIS: Ms. Foy, did you say
3 something?

4 MS. FOY: No.

5 JUDGE PARIS: I heard something in the
6 background there. I thought maybe it was you trying
7 to get through. Sorry.

8 Mr. Reis, when you proposed a six-week
9 advance, were you thinking of a bifurcated hearing
10 then?

11 Mr. Reis?

12 (Pause)

13 Have we lost him?

14 JUDGE CLARK: Yes.

15 JUDGE PARIS: Are we on?

16 JUDGE CLARK: I believe he said he had to
17 leave at 2:30, it's after 3 o'clock.

18 JUDGE PARIS: Okay.

19 MR. GODDARD: I don't know.

20 At the present time, I do not know if Mr.
21 Reis is thinking --

22 MR. REIS: I am still here. I am still
23 here.

24 JUDGE PARIS: Did you hear my question?

25 MR. REIS: No, I didn't. I was telling my

1 secretary to call and --

2 JUDGE PARIS: And cancel your 2:30?

3 MR. REIS: I might be late --

4 JUDGE PARIS: Okay.

5 MR. REIS: -- on my other appointment.

6 JUDGE PARIS: Okay.

7 My question was, when you proposed moving
8 the hearing forward to early March, were you thinking
9 of a bifurcated hearing?

10 MR. REIS: Yes, I was.

11 JUDGE PARIS: Okay.

12 (Pause)

13 Judge Clark?

14 JUDGE CLARK: Yes?

15 JUDGE PARIS: Maybe the Board should take
16 all of this argument into consideration and discuss
17 this in Board conference and issue an order.

18 JUDGE CLARK: Well, I think that's right.

19 MR. GODDARD: This is Mr. Goddard.

20 JUDGE CLARK: Yes?

21 MR. GODDARD: I would think that the Board
22 is done -- could use -- issue such an order, perhaps
23 the schedule of witnesses, counsel or other parties
24 might be ascertained after -- based with definitely
25 unavailable date by virtue of other commitments.

1 JUDGE CLARK: Well, that's good. Of course,
2 that's -- some witnesses will be unavailable some
3 dates and other witnesses, other dates. And we don't
4 even know who the witnesses are going to be now.

5 MR. GODDARD: That is correct in part. I'm
6 thinking primarily of the Intervener's witnesses
7 because I'm quite familiar with their schedule and
8 Judge Ferguson's schedule, as we are locked up in the
9 Shoreham Hearing together right now.

10 JUDGE CLARK: Right.

11 Well, Judge Ferguson is available for the
12 week of April the 15th. This is one of the reasons
13 that we agreed to that so readily.

14 MR. GODDARD: Right, sir.

15 I can't speak for the other Counsel or
16 parties, and, of course, the Staff could provide
17 another Counsel in my place. I do know that I'm
18 unavailable during the last two weeks of March.

19 JUDGE PARIS: Is that because of Shoreham?

20 MR. GODDARD: No, sir. That's because of
21 military duty.

22 JUDGE PARIS: Okay.

23 The last two weeks of March you're
24 unavailable?

25 MR. GODDARD: Seventeen through 31 March.

1 Yes, sir.

2 JUDGE PARIS: Anybody else have --

3 JUDGE CLARK: Well --

4 MR. GODDARD: We have another Counsel
5 normally assigned to the case now who I'm sure would
6 be representing the Staff at that time.

7 JUDGE CLARK: Mr. Goddard --

8 MR. REIS: This is Mr. Reis.

9 We want to take care of things to -- we will
10 meet whatever dates the Board sets.

11 MR. GODDARD: I am aware of that, but I just
12 wanted to make any available -- I would prefer to be
13 available for that if it is otherwise compatible with
14 the schedule the Board would set. I wanted to make
15 those dates known.

16 JUDGE CLARK: Mr. Goddard, have you any idea
17 of when you will know who your other witnesses would
18 be?

19 MR. GODDARD: With regard to on-site
20 planning and contention three, I can probably provide
21 those names by mid-October.

22 JUDGE CLARK: I see.

23 MR. GODDARD: With respect to the quality
24 assurance -- control, it is impossible because at this
25 point the parties have not even narrowed the scope of

1 their contention.

2 We have not identified the parties or the
3 Staff reviewers yet who will be working with regard to
4 various reviews that are going to be undertaken on
5 what station.

6 With regard to on-site I'm afraid that the
7 majority of the --

8 JUDGE PARIS: You're breaking up, Mr.
9 Goddard. With regard to on-site what?

10 MR. GODDARD: With regard to off-site, I'm
11 afraid --

12 JUDGE PARIS: Off-site?

13 MR. GODDARD: -- the majority of witnesses
14 will be from FEMA.

15 JUDGE PARIS: From my experience with FEMA,
16 it takes at least a month for them to do their review,
17 doesn't it?

18 MR. GODDARD: Yes, sir, I think that's
19 correct.

20 (Pause)

21 MR. REIS: I would say so also. This is Mr.
22 Reis.

23 JUDGE CLARK: Well, gentlemen, I think we've
24 probably gone as far as we can today. I think I will
25 follow Judge Paris' suggestion. The Board will meet

1 -- however, if it might be productive, we will
2 schedule another telephone conference rather than I
3 give you the benefit of all of our thinking. In the
4 meanwhile, you can do some thinking yourselves about
5 alternatives

6 MR. REIS: Thank you.

7 MR. GODDARD: Thank you, Your Honor.

8 JUDGE PARIS: If anyone else has a known
9 time in March and April when they cannot be available,
10 it would help if you would speak up now as Goddard has
11 done.

12 MR. ZABEL: This is Mr. Zabel, Your Honor.

13 We will be available at any time for
14 hearing, and certainly just to respond to one other
15 item, on March 1, initiation of hearing date, I think
16 would allow the necessary additional time, if any, for
17 the depositions that Judge Clark was concerned about.

18 JUDGE CLARK: Well, thank you.

19 Anyone else have anything to say before we
20 close?

21 MR. SAMELSON: Not for the State of
22 Illinois.

23 MS. FOY: Nothing.

24 MR. GODDARD: Nothing for the Staff.

25 JUDGE CLARK: Very well.

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This conference is now closed.

MR. GODDARD: Thank you.

JUDGE CLARK: Good night.

(Whereupon, at 3:14 p.m., the conference was
closed.)

CERTIFICATE OF PROCEEDINGS:

This is to certify that the attached proceedings,

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SOYLAND POWER COOPERATIVE, INC.,
AND WESTERN ILLINOIS POWER COOPERATIVE

DOCKET NO. 50-461 OL

DATE: 21 SEPTEMBER 1984

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BETHESDA, MD
(CONFERENCE CALL)

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

REPORTER: STEPHEN ALEXIS CAIN

SIGNED: *Stephen A. Cain*

TRANSCRIBER: Neal R. Gross

SIGNED: *Neal R. Gross*