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Renewal of License No. R-97
Pre-Hearing Conference

Docket Number: 50-100-REN
ASLBP No.: 95-710-01-Ren.

Location: (Telephone Conference Call)

Date: Thursday, February 29, 1996

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UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD

PREHEARING CONFERENCE

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IN THE MATTER OF: : Docket No.
 GEORGIA INSTITUTE OF TECHNOLOGY : 50-160-Ren.
 Atlanta, Georgia :
 :
 GEORGIA TECH RESEARCH REACTOR : ASLBP No.
 : 95-710-01-Ren.
 Renewal of License No. R-97 :

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Thursday, February 29, 1996

Telephone Conference Call

The above-entitled matter came on for prehearing conference, pursuant to notice, at 2:00 p.m.

BEFORE:

- CHARLES BECHHOEFER, Esq. Chairman
- DR. JERRY R. KLINE Administrative Judge
- DR. PETER S. LAM Administrative Judge

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1 APPEARANCES:

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9 On behalf of the Nuclear Regulatory Commission

10 Staff:

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12 COLLEEN WOODHEAD, ESQ.

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17 On behalf of the Atomic Safety and Licensing Board

18 Panel:

19 LEE S. DEWEY, ESQ.

20 Chief Counsel

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1 APPEARANCES (Continued):

2 On behalf of Georgia Institute of Technology:

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4 Senior Assistant Attorney General

5 State of Georgia

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10

11 ALSO PRESENT:

12 Marvin Mendonca

13 Technical Representative

14 U.S. Nuclear Regulatory Commission

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

(2:02 p.m.)

1
2
3 CHAIRMAN BECHHOEFER: I believe perhaps
4 setting a more definite schedule than we've set before for
5 things like filing testimony and actual hearing dates
6 having saved the GANE submission, which we've had for a
7 couple of days now, we -- first let me inquire.

8 I had understood when I talked to Mr. Evans
9 that Georgia Tech had not received its copy of GANE.

10 MR. EVANS: I got it yesterday.

11 CHAIRMAN BECHHOEFER: Okay. Good.

12 MR. EVANS: Frankly, I've speed read it. I
13 haven't had a chance to really -- you know, it's fairly
14 thick. I haven't had a chance to really read it in
15 detail. I have thumbed my way through it.

16 CHAIRMAN BECHHOEFER: Right. My next inquiry
17 is whether GANE, Mr. Carroll, have you received the
18 staff's response to your motion to compel.

19 MS. CARROLL: I believe so. I have a Federal
20 Express package that arrived yesterday. And,
21 unfortunately, my world is in turmoil, and I haven't been
22 able to look at it.

23 CHAIRMAN BECHHOEFER: I see. Some of our
24 questions have to do with really asking you whether you're
25 satisfied or whether you see potential documents which

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1 were not produced and beforehand a . le of inquiries
2 about one or two that were not pro' lea. But, in any
3 event, we'll try to generally refer to those later on.

4 I guess the first matter that we should talk
5 about is GANE. Glenn, you referred to certain times when
6 Georgia Tech students were going to be taking exams,
7 preparing for exams. You didn't provide any dates.

8 MS. CARROLL: Those dates -- I've got those
9 handy if you want to know. I just worked backwards from
10 that.

11 CHAIRMAN BECHHOEFER: Well, we had talked
12 about that one date from the 20th to the 24th.

13 MS. CARROLL: Of May?

14 CHAIRMAN BECHHOEFER: Of May. We had
15 mentioned that. But how that reconciled with your desired
16 hearing dates, we had no idea about what dates you thought
17 it could not have been.

18 MS. CARROLL: I think that you probably have
19 this handier than me. Did I say the week of May something
20 was the last good week?

21 CHAIRMAN BECHHOEFER: You had said that we had
22 identified it as the last week prior to the Olympics or,
23 actually --

24 MS. CARROLL: No, no, no. Well, if I said
25 that, that's not what I meant. I meant we identified this

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1 one week that I identified as the last good week. The
2 week following that would be the week students would
3 prepare for exams. And then the week following that is
4 the actual exams.

5 CHAIRMAN BECHHOEFER: I see.

6 MS. CARROLL: And those would be terrible
7 times for students.

8 CHAIRMAN BECHHOEFER: I see. Well, that first
9 week, that May 20th through 24th --

10 MS. CARROLL: That would be the last week.
11 Any week prior to that would be fine.

12 CHAIRMAN BECHHOEFER: I don't think people can
13 get ready prior to that.

14 MS. CARROLL: Then what we're suggesting is if
15 people can't get ready prior to that, that it will have to
16 be postponed because I think after exams the students
17 break for the summer and the Olympics take over the
18 campus.

19 CHAIRMAN BECHHOEFER: Right.

20 MS. CARROLL: We'd say the hearing would have
21 to be next fall when school resumes.

22 CHAIRMAN BECHHOEFER: We would much prefer to
23 be able to finish up before the Olympics. It might be
24 that the second week is necessary. I don't know how many
25 days it will require, but it might be the second week

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1 would have to be during that exam period. But we would
2 like to schedule a hearing so that it would be finished by
3 the time the Olympics crowd starts coming into Atlanta.

4 MS. CARROLL: Well, GANE will be firm on our
5 stand that a public hearing when the affected public is
6 unable to attend would be inappropriate. We're firm on
7 that.

8 CHAIRMAN BECHHOEFER: Yes. The affected
9 public is really not only the students, but --

10 MS. CARROLL: Of course not, but they are the
11 closest in proximity to the situation.

12 CHAIRMAN BECHHOEFER: Anyway, the week of the
13 20th through the 24th would be an appropriate week to
14 start the hearing anyway. And to the extent we had to
15 finish, we might have to go a few days more later on. I
16 don't know how much time will be taken.

17 MS. CARROLL: I'm sure I don't.

18 MR. EVANS: Between the 20th and the 24th of
19 May?

20 CHAIRMAN BECHHOEFER: May. But I'm using that
21 as a --

22 MR. EVANS: I thought we were talking about
23 early June or sometime in early June.

24 CHAIRMAN BECHHOEFER: Well, we had also talked
25 about early June, but the 20th to 24th of May was a date I

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1 mentioned that would allow sufficient time for those who
2 would be filing prepared testimony, which is done usually
3 two weeks before the hearing starts. Then the parties
4 would have a chance to receive it and look at it first.

5 THE REPORTER: Excuse me. Mr. Bechhoefer,
6 this is the court reporter. To whom were you just
7 speaking?

8 CHAIRMAN BECHHOEFER: I was speaking to
9 everybody.

10 THE REPORTER: I know. Most particularly,
11 whose voice was the one just before yours.

12 MR. EVANS: Is it mine?

13 THE REPORTER: I suppose so.

14 MR. EVANS: Okay. Al Evans.

15 CHAIRMAN BECHHOEFER: I guess people before
16 they --

17 MR. EVANS: I'm sorry. I'll do --

18 CHAIRMAN BECHHOEFER: -- speak should identify
19 themselves just for the court reporter's benefit.

20 MR. EVANS: Right.

21 THE REPORTER: Okay. Thank you very much.

22 CHAIRMAN BECHHOEFER: Anyway, we had suggested
23 that that would be likely the first week because April 1
24 was the end of discovery. And that would be that
25 testimony would have to be filed around May 1 to be able

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1 to beat the 20th, the date of the 20th. You'd need about
2 two weeks. Fifteen days I think it says or something like
3 that for prepared testimony for those who are going to
4 file it.

5 Now, we may waive the requirement for some
6 witnesses. If you want to start the hearing earlier, I
7 suppose we could say nobody uses prepared testimony. But
8 that's up to the parties.

9 MS. CARROLL: Of course, I have no idea --
10 this is Glenn Carroll from GANE -- how many witnesses the
11 NRC plans to call and Georgia Tech plans to call. Of
12 course, that will have an impact. We have such a short
13 list of witnesses. And we won't be having to file
14 testimony, but the other parties I think are planning --

15 CHAIRMAN BECHHOEFER: We are going to talk
16 about it. We would be willing to waive the requirement
17 for GANE witnesses. But we think in one respect it's
18 desirable for GANE to file as prepared testimony a
19 statement of qualifications --

20 MS. CARROLL: Right.

21 CHAIRMAN BECHHOEFER: -- of each of the
22 witnesses, which would be maybe just putting a resumé in
23 or whatever they wish to put in the record concerning the
24 background and qualifications.

25 Then when the witnesses get on the stand, they

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1 will be asked a simple question, "Is this yours?" You
2 might want to go ahead and ask them, "Is this an
3 appropriate statement of your background? Is there
4 anything you wish to add or change or modify?" If not,
5 it's bound in the record. And that will save a little
6 time for that night of testimony.

7 MR. TURK: Your Honor, this is Sherwin Turk.

8 CHAIRMAN BECHHOEFER: Yes?

9 MR. TURK: I don't understand why we would
10 waive the requirement for prefiling testimony for GANE.

11 CHAIRMAN BECHHOEFER: You wouldn't. We would.

12 MR. TURK: Yes. Well, then let me phrase it
13 differently. I would argue that, particularly because
14 GANE is represented by a nonlawyer, where GANE's
15 representatives are not skilled at asking proper questions
16 or limiting responses to the scope of particular
17 questions, I think in this case more than in the case
18 where there's a lawyer asking the questions, we would want
19 to see prefiled testimony.

20 Because what happens if GANE's representative
21 simply says to the witness, "Tell us what you think about
22 the management of the reactor" and we all sit back and
23 wait two hours for the answer to come in? I think that's
24 going to lead to objections throughout the course of the
25 response to the questions.

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1 I think it is important to have questions
2 written out in advance with witnesses answering in
3 advance, particularly because GANE is not represented by
4 an attorney in the case.

5 CHAIRMAN BECHHOEFER: Well, I think
6 particularly because they're not represented and we don't
7 have an attorney to sit down and write the testimony for
8 the witnesses or to even suggest it and because many, if
9 not all, of their witnesses are going to be required to
10 come by subpoena, I think that the requirement for
11 prefiled testimony might well be inappropriate. And, in
12 any event, much of the testimony will be factual in
13 nature.

14 Well, we're going to get a little later on to
15 the permissible scope in reference to at least one, maybe
16 more, of the witnesses you call or you've identified I
17 should say. But I think it would be appropriate unless
18 according to GANE these people can't prepare their
19 testimony in advance and provide it along with that of
20 other parties.

21 We would be willing to waive the requirement
22 for all essentially factual witnesses except perhaps for
23 statements of qualification, which would take a little
24 time.

25 We would waive it for staff as well and

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1 Georgia Tech if they wish. We would require formal
2 identification by the applicant and staff of who their
3 witnesses would be, but I think we would be willing to
4 waive the requirement across the board.

5 Hold the line for a minute.

6 (Whereupon, the foregoing matter went off the
7 record at 2:14 p.m. and went back on the
8 record at 2:15 p.m.)

9 CHAIRMAN BECHHOEFER: Back on the record.

10 When I refer to the fact of waiving it, I was assuming
11 that, as GANE had said at one of the prehearing
12 conferences or conference call, -- I can't remember -- it
13 would be difficult to have witnesses prepare their
14 testimony in advance.

15 If this is incorrect, it would certainly be
16 helpful to have prepared testimony. But, as I say, I
17 think unless GANE feels that they wish their witnesses to
18 prepare their testimony, we would be willing to waive it
19 for the witnesses that have been identified.

20 And, as I say, we could treat the applicant
21 and staff equally. We would do the same thing. But we're
22 not forcing anybody not to file prepared testimony.

23 MR. EVANS: This is Al Evans.

24 I don't much care which way we go except that
25 I think it certainly needs to be uniform because obviously

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1 I wouldn't want to have my witnesses putting in prepared
2 testimony to give GANE or anyone else two weeks to dissect
3 it and have a withering cross-exam, which is always a lot
4 rougher if you hear it for the first time in court. So
5 long as it's uniform, it's fine by me either way.

6 CHAIRMAN BECHHOEFER: Let me ask. Glenn, do
7 you know whether you could provide prepared testimony in
8 advance or not? I might say if nobody uses prepared
9 testimony, we could push up the hearing date conceivably,
10 make it sooner.

11 MS. CARROLL: This is Glenn Carroll.

12 I would say except for Dr. Carter, whom I
13 won't be able to talk to until he gets back from Africa,
14 that we won't be able to file prefiled testimony, that our
15 witnesses are concerned about the issues and are hostile
16 witnesses of GANE's. They don't wish to GANE's -- share
17 GANE's agenda maybe. My word is not theirs. They
18 definitely will require a subpoena. And I don't see how
19 we can do a prefiled testimony around that.

20 But I would like to make one observation if
21 all of GANE's witnesses are going to be subpoenaed. I
22 mean, we're going to be deposed. And what comes out of
23 that will be dissected, if you will.

24 MR. EVANS: That's correct. Maybe --

25 MS. CARROLL: And we don't have a clue what's

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1 going on with the NRC and Georgia Tech. We'll provide a
2 list of witnesses.

3 CHAIRMAN BECHHOEFER: You can take
4 depositions.

5 MS. CARROLL: We'll provide a list of
6 witnesses even if you don't provide --

7 CHAIRMAN BECHHOEFER: If parties elect not to
8 file prepared testimony if we waive the requirement for
9 everybody, we would like all parties to identify to us who
10 their witnesses are going to be, to us and to the other
11 parties. I think that could be done easily, and it
12 wouldn't have to be done too much ahead of time.

13 MS. CARROLL: Well, if GANE were --

14 CHAIRMAN BECHHOEFER: I think statements of
15 qualifications could be filed. And I don't think we would
16 have to file a two-week delay eventually if we only were
17 looking at statements of qualification. I think as part
18 of the identification of witnesses, the qualification
19 could be provided at the same time.

20 GANE has identified their witnesses already
21 and staff. The applicant and staff have not. And those
22 parties if they elect not to file prepared testimony, they
23 could at least provide their statements of qualifications
24 of the witnesses plus an identification of the witnesses.

25 MS. CARROLL: This is Glenn.

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1 The timing of that needs to be such that
2 although GANE has the broad assumption we cannot muster or
3 afford depositions, I think we at least need the
4 opportunity to know who these people are ahead of time.
5 Maybe it's even likely that we would do a deposition or
6 two. And I believe that cutoff date to be April 1. So it
7 seems that those names need to be forthcoming.

8 MR. EVANS: I think that's for discovery. I
9 don't think that was for -- I think it would be about mid
10 April before we made final decisions on witnesses.

11 MS. CARROLL: Well, GANE knows --

12 MR. EVANS: I mean, I could tell you I know
13 some of them now, but I think to some extent it depends
14 what happens on discovery, what we feel we're going to
15 have to respond to, which may or may not cause us to have
16 to call particular people as witnesses.

17 MR. TURK: Your Honor, this is Sherwin Turk
18 again.

19 I think we're trying to achieve an objective,
20 and we're doing shortcuts or shortcuts are being proposed
21 that may not be necessary. As I see the next steps in the
22 litigation process here, the staff and licensee will be
23 conducting some depositions, hopefully to conclude around
24 the end of March, possibly reaching into the following
25 week depending on witness availability.

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1 And then we'll need a period of time to
2 prepare testimony, prepare for hearing.

3 CHAIRMAN BECHHOEFER: You won't need a time to
4 prepare for testimony if we say you don't need to and you
5 elect not to.

6 MR. TURK: Well, it's still a --

7 CHAIRMAN BECHHOEFER: It's not going to
8 preclude you from --

9 MR. TURK: No, but whether it's written or
10 oral --

11 MR. EVANS: You have a lot of preparation
12 time. This is Al Evans.

13 MR. TURK: That's correct. That's correct.

14 MR. EVANS: I mean, you rehearse your
15 witnesses, what we call working your witnesses, rehearsing
16 them and going over the questions you're going to ask them
17 on direct, which is time-consuming. That's all I'm
18 pointing out.

19 MR. TURK: Your Honor, I would make the same
20 point, but, more importantly, I think if we're looking at
21 a four-week period to do that, that would not be enough
22 time. We probably at this point would need six weeks
23 after the close of discovery to prepare witnesses, to form
24 the issues properly, and to get ready to go into hearing.
25 It may be that we cannot go to hearing until the end of

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1 May or beginning of June. That's one thing I want to keep
2 in mind.

3 But in terms of whether there should be
4 prefiled testimony by GANE, I want to come back to that
5 for a minute. At this point GANE has identified nine
6 witnesses as the people who will appear for it. Three of
7 them are members of GANE. And there's no reason to
8 believe that those three people -- these are Rob Johnson
9 and Joan King and one other individual, whose name slips
10 me at the moment.

11 MS. CARROLL: John Galloway.

12 MR. TURK: And John Galloway. Those three
13 people are members of GANE. There's no reason why they
14 could not prepare prefiled testimony.

15 MS. CARROLL: Their names are included, Mr.
16 Turk, purely because their notes are included. They
17 actually --

18 MR. TURK: Well, you're --

19 MS. CARROLL: I wanted to cover that base.
20 And you had --

21 MR. TURK: They are named. If GANE does
22 propose to put them forward as witnesses, then they should
23 be able to prepare prefiled testimony saying whatever it
24 is that they want to say on the stand so we can review
25 that.

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1 CHAIRMAN BECHHOEFER: She said they would only
2 be referred to be witnesses if they were called upon to
3 justify some of the statements that were taken from their
4 notes that are in GANE's responses.

5 MS. CARROLL: Right.

6 CHAIRMAN BECHHOEFER: That does not appear to
7 require prepared testimony. If a question is raised as to
8 the authenticity of some of the statements, they may be
9 called upon to describe where they got those statements.
10 I don't think they are proposed to be witnesses as such.

11 MR. TURK: The point you're making is a good
12 one. If they were going to appear as witnesses, perhaps
13 their prefiled testimony consists of a single page that
14 would say, "What is the purpose of your testimony?" And
15 they would say, "I'm here to recite what I read in the
16 licensee's Nuclear Safeguards Committee minutes, which are
17 attached. My notes to those are attached hereto" or
18 whatever.

19 That's a very easy job for them to prepare.
20 There's no reason to waive a prefiling requirement for
21 those three.

22 CHAIRMAN BECHHOEFER: Well, for those three, I
23 don't think they'll ever be witnesses. They'll only be
24 witnesses if a question is raised by other parties as to
25 the authenticity of some of the statements. And they're

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1 almost like rebuttal witnesses, so to speak.

2 Whoever is presenting the case for GANE, if
3 there are statements, inconsistent statements, in like the
4 recitation of various events on which GANE states it is
5 relying, only if a question were raised would those people
6 be called, almost like law clerks do some research and
7 make a mistake.

8 MR. TURK: What you're assuming, then, is that
9 GANE would be cross-examining licensee personnel about
10 documents and then only if they disagree about a document
11 or the contents are they then called as a rebuttal
12 witness.

13 I don't understand that that would even be
14 necessary. If GANE wants to question about a document,
15 they can put the document in. They can get a copy of the
16 document and introduce it.

17 So it may be that these people don't appear
18 anyway because they're not necessary. But as long as GANE
19 has listed them as witnesses --

20 CHAIRMAN BECHHOEFER: I read that as they're
21 being called only if necessary to justify some other
22 point, not as testimony.

23 MR. TURK: You're really reaching for the
24 question of how GANE is going to try its case, which we
25 don't know yet. All we know so far is that GANE has named

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1 these people as witnesses.

2 MS. CARROLL: May I please shed some light on
3 this? I put this document in under oath. I did that very
4 seriously. I did not with my own eyes read all of these
5 documents. I relied on the notes of GANE volunteers.

6 I identified the volunteers who read the
7 notes. Their notes were in there. I can identify them
8 for you further. I can resubmit them with the names of
9 who spoke for whom.

10 But they are purely there because I cannot say
11 I know something I did not read. And that's why I
12 provided them. But it was purely to --

13 CHAIRMAN BECHHOEFER: I think we can assume
14 that these people will not be witnesses or if witnesses
15 will be the type who would not normally file prepared
16 testimony in any event. They're being called upon after
17 the fact to testify about --

18 MR. TURK: Let me move on, Your Honor. What
19 I'd like to do is address all nine of the named witnesses
20 and see whether or not we may be able to get prepared
21 testimony from them.

22 I started with the first three because I felt
23 that they were fairly easy to dispose of. Maybe I'm
24 wrong, but I would agree with you that it's not apparent
25 that actually there's any need for them to appear as

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1 witnesses. I'm simply starting with the assumption that
2 if GANE has named them as witnesses and if they are going
3 to appear, then there's no reason why those three could
4 not prepare testimony in advance, no matter how brief it
5 is, simply to state what it is that they're going to be
6 saying if they appear.

7 Let me move from those three, however, and
8 come to two others: Glenn Carroll herself and Pamela
9 Blochy O'Brien. Ms. Carroll is certainly not a hostile
10 witness, and there's no reason why she could not prepare
11 testimony in advance stating what it is that she's going
12 to put on on the witness stand.

13 The same is true for Pamela Blochy O'Brien,
14 who for years, certainly the last two years that I'm aware
15 of, has been working with GANE, who has filed a 2-206
16 petition that raised the same issues that GANE raised in
17 its contentions in this proceeding, who is continuing to
18 work in close association with Ms. Carroll. There is no
19 reason why she could not be required in advance to set
20 down on paper what she wants to talk about on the witness
21 stand.

22 Let me reach a second question here, and that
23 is the need for a subpoena.

24 CHAIRMAN BECHHOEFER: Well, we had some
25 questions about what Ms. Blochy O'Brien would testify to,

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1 particularly concerning the reference that GANE put into
2 matters appearing in her 2-206 petition.

3 Most of that material is not relevant to the
4 contention that we're considering. And she could not
5 introduce those petitions as direct testimony. Most of it
6 would be not relevant. So the scope of her direct
7 testimony would have to be considerably narrower than what
8 she put in her 2-206 petition.

9 MR. TURK: I agree with that, Your Honor.

10 CHAIRMAN BECHHOEFER: There may be some
11 material in there that's relevant. I haven't studied it
12 in detail. About all she could testify to would be that
13 kind of material. And, of course, that would be subject
14 to cross-examination of the source, values, et cetera.

15 MR. TURK: But the only way to get a proper
16 scope of that, Your Honor, is to require in advance that
17 she submit it in writing. We can then move in limine to
18 exclude portions of it. And then when she actually
19 appeared at the witness stand, the scope of the testimony
20 will already have been properly addressed. Otherwise
21 you're going to find yourself in a situation where the
22 witness appears and you will be asked to make rulings
23 constantly interrupting the witness.

24 I think the prefiling is a very good
25 requirement, particularly for this kind of a witness.

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1 Now, I'm not aware of any reason why she could not prepare
2 her testimony in advance.

3 The other point that Glenn Carroll raised in
4 this conversation is that witnesses would only appear
5 under subpoena. Well, if that's true, the subpoena could
6 be issued early to permit enough time for people to work
7 on their prefiled testimony.

8 CHAIRMAN BECHHOEFER: We'll go off the record
9 for a second.

10 MR. TURK: Your Honor, I would like to address
11 the other witnesses named by Ms. Carroll as well whenever
12 you're ready.

13 CHAIRMAN BECHHOEFER: We'll be off the record
14 just a minute.

15 (Whereupon, the foregoing matter went off the
16 record at 2:30 p.m. and went back on the
17 record at 2:34 p.m.)

18 CHAIRMAN BECHHOEFER: We're back on the
19 record. In talking this over, we perhaps would see a
20 reason for Blochy O'Brien and Glenn Carroll to file
21 prepared testimony. To the extent, Glenn Carroll,
22 whatever your testimony is, you probably could file that
23 in advance.

24 MS. CARROLL: What about my thing for --

25 CHAIRMAN BECHHOEFER: Your what?

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1 MS. CARROLL: My discovery requests.

2 CHAIRMAN BECHHOEFER: Discovery responses are
3 never testimony. It would be the same thing, but what are
4 you going to testify to because --

5 MS. CARROLL: I appreciate that there are
6 distinctions. However, it's tough for me to make some of
7 them, the whole legal --

8 CHAIRMAN BECHHOEFER: I mean, normally during
9 your discovery responses, you indicate the points you're
10 going to try to establish through your other witnesses.
11 To the extent you yourself are going to be a witness, I
12 suppose you could decide what you wanted to say.

13 Off the record again for a minute.

14 (Whereupon, the foregoing matter went off the
15 record at 2:35 p.m. and went back on the
16 record at 2:37 p.m.)

17 CHAIRMAN BECHHOEFER: We're back on the
18 record. We think after discussing this that it might be
19 better for everyone except hostile witnesses or witnesses
20 who are being subpoenaed to file prepared testimony and
21 for those several people who have to be brought in by
22 subpoena, that they will be very hostile witnesses.

23 And even for those, we would like statements
24 of qualifications filed. And that will be on whatever
25 date we fix, which is going to try to fix pretty soon.

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1 MS. CARROLL: Judge Bechhoefer?

2 CHAIRMAN BECHHOEFER: Yes?

3 MS. CARROLL: This is Glenn Carroll. I have a
4 question.

5 Ms. O'Brien is not cooperating very well with
6 me. And perhaps I'll be able to sort through that. But
7 one concern she has, which I believe can be addressed, but
8 I'd kind of like to check on that with you all, is that
9 she's a voracious investigator. She won't stop. She's
10 studying probably as we speak.

11 And she's concerned about being prohibited
12 from raising anything she finds after she's filed any
13 testimony. And I believe if she finds anything, it will
14 be more than welcome to be added.

15 MR. EVANS: I should think the other way
16 around.

17 CHAIRMAN BECHHOEFER: Normally unless it's
18 new, not ne to her, but new information, normally you
19 should include in your testimony everything that had
20 occurred thus far and of which you are aware or should
21 have become aware. And if something happened in the next
22 week or two, that would be different.

23 MS. CARROLL: Sequoyah is so time-consuming.
24 I see a lot of process and red tape things that make it
25 very, very difficult. We don't have a public document

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1 room here. So we can't go and just read this stuff at our
2 leisure. We have to buy it. We have to wait for it to
3 come. And those are handicaps to knowing everything
4 that's happened up to no.

5 MR. TURK: I didn't hear the last end of what
6 Ms. Carroll just said. May I ask that she repeat or
7 summary?

8 MS. CARROLL: I suppose the court reporter got
9 it.

10 MR. TURK: It was very faint.

11 MS. CARROLL: Oh, I'm sorry.

12 MR. MENDONCA: If the court reporter could
13 repeat?

14 THE REPORTER: Possibly. You're going to have
15 to wait a second now. Who just spoke, please?

16 MR. MENDONCA: Marvin Mendonca.

17 THE REPORTER: Mr. Mendonca. All right. Once
18 I play this back for you, I would ask that you stay off
19 the record until I tell you to proceed again. Thank you.

20 (Whereupon, the pending question was played
21 back by the reporter, as requested.)

22 (Whereupon, the foregoing matter went off the
23 record at 2:39 p.m. and went back on the
24 record at 2:42 p.m.)

25 CHAIRMAN BECHHOEFER: We're on the record or

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1 we're listening, anyway.

2 MR. TURK: Your Honor, this is Sherwin Turk.

3 I assume that the comments by Ms. Carroll
4 related to the ability of her to work with Ms. Blochy
5 O'Brien to get prefiled testimony and what they should do
6 with new matters that Ms. Blochy O'Brien may wish to add.

7 CHAIRMAN BECHHOEFER: That's my understanding
8 of what was raised, yes.

9 MS. CARROLL: That's what I asked.

10 MR. TURK: Let me note that I am aware that
11 Ms. Blochy O'Brien is continuing to investigate on her own
12 different issues related to Georgia Tech. In fact, I'm
13 scheduled this afternoon to have a conference call with
14 the region to discuss another whole series of requests for
15 information and claims by Ms. Blochy O'Brien pertaining to
16 Georgia Tech. And I believe a letter from the region of
17 approximately 20 pages single-spaced is about to go out to
18 her with regard to many of her concerns.

19 We've also had a 2-206 petition with numerous
20 and almost constant supplementation by Ms. Blochy O'Brien.
21 So we're aware that she's continuing on an ongoing basis
22 to raise concerns related to this reactor.

23 That doesn't mean that she can continue to do
24 it up to the point of the hearing. At some point an
25 intervenor or any party has to be ready to say, "All

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1 right. This is what my case consists of."

2 MR. EVANS: Normally at the end of discovery.
3 Then that's it.

4 MR. TURK: If Ms. Blochy O'Brien then finds
5 additional matters that she wants to raise, she may move
6 or Ms. Carroll may move on behalf of GANE to reopen the
7 record if the record has closed already or to supplement
8 the record, allowing other parties enough parties in
9 advance to learn what it is that are going to be the
10 issues that are being raised.

11 But I would oppose any attempt by GANE or Ms.
12 Blochy O'Brien to simply appear on the witness stand with
13 a whole new list of issues for us to have to consider as
14 she appears in person on the stand. That is not proper
15 procedure.

16 CHAIRMAN BECHHOEFER: No. We never suggested
17 that. We would limit it or if it were oral testimony, we
18 would limit it to the subject of the contention that was
19 let in already.

20 MR. TURK: Right. And that is one very
21 fundamental reason why the requirement of prefiled
22 testimony for Ms. Blochy O'Brien should be adhered to.
23 And even if Ms. Blochy O'Brien is not cooperating on a
24 personal basis with GANE, GANE is a party in the
25 proceeding.

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1 If GANE wishes to put her testimony in, it is
2 GANE's obligation to comply with our rule. If Ms. Blochy
3 O'Brien does not cooperate with that, perhaps GANE will
4 have to strike her as a witness. But any personal
5 differences that those two individuals may be having
6 should not affect the way this proceeding is conducted.

7 CHAIRMAN BECHHOEFER: I've already ruled,
8 actually, that all parties are supposed to be using
9 prepared testimony and we'll set a date except for hostile
10 witnesses, the ones who have to be subpoenaed.

11 MR. TURK: Then there's a question about the
12 other people. I think so far we've addressed six out of
13 the nine. The other three people that GANE has identified
14 are Robert Foyd, Dr. Melvin Carter, and Dr. Brian Copcott.

15 MS. CARROLL: And Rebecca Long.

16 MR. TURK: I'm sorry. And Rebecca Long. Even
17 for those individuals, there is no reason to assume that
18 simply because they are not members of GANE or they are
19 not willing to appear without a subpoena, there is no
20 reason to assume that they cannot prepare testimony in
21 advance.

22 Mr. Boyd I know has worked with GANE for some
23 time. He's an adviser to them. Ms. Carroll has
24 identified him as an adviser to them. The others perhaps
25 have not worked with GANE until now, but if GANE wishes to

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1 put them forward, there's no reason why GANE cannot file
2 in advance a statement of what their testimony will be in
3 proper form.

4 And if it's necessary for the Board to issue a
5 subpoena early on so that GANE then sits down and works
6 with them to develop testimony, perhaps that's the proper
7 outcome. But I don't think simply because a party is not
8 a member of GANE or says "I won't appear unless you get a
9 subpoena for me," that they're hostile.

10 Let me point out that Ms. Colleen Woodhead,
11 who is sitting with me, mentioned that she was recently
12 involved in the Pierce proceeding in which two former
13 employees of Commonwealth Edison were hostile to the
14 staff, but they did file answers to written questions in
15 advance. And they were then brought in with a subpoena to
16 testify. And we can go get the Pierce decision to get the
17 exact procedural context that that arose in. But even
18 though they were hostile, they did file in advance of
19 their testimony.

20 MS. CARROLL: I have a question, if I may.

21 CHAIRMAN BECHHOEFER: The Board can't make
22 them file testimony. I don't think you can. You can't
23 make a hostile witness file prefiled testimony.

24 MR. TURK: Well, it may be that you cannot
25 force the hostile witness to do something, but if the

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1 party who wishes to bring the witnesses forward is
2 required to file a statement in advance of what the
3 testimony is going to be, that gives the other parties the
4 right opportunity to examine that and to cross-examine
5 when the witness appears.

6 Perhaps the first question would be whether
7 the person had seen the testimony and whether they agree
8 with it and do they wish to advance it as their testimony
9 in the proceeding. And that's something that's the
10 typical question asked of a witness when they appear,
11 whether they're hostile or not hostile. If they have any
12 differences with the testimony, they could state it on the
13 record at that time and say what the differences are.

14 MS. CARROLL: Mr. Turk, if I can --

15 MR. TURK: I think my bottom line, Your Honor,
16 is I don't see a reason to shortcut the procedures at this
17 point with a blanket grant of permission for GANE not to
18 have to file for these individuals in advance.

19 CHAIRMAN BECHHOEFER: Well, you're going to
20 have a chance to depose all of these witnesses before the
21 hearing. And I think that's sufficient given the fact
22 they are a hostile witness.

23 I'm not saying they can't file prepared
24 testimony, but I don't think we will require that they do
25 so. Now, if GANE elects to have prepared testimony for

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1 them, that's certainly okay. It would even be preferable.
2 But we will not require it for the people we have to
3 subpoena. If they have to be subpoenaed, GANE will have
4 to request subpoenas.

5 So we'll allow a little more time for
6 cross-examination so that proper cross-examination can be
7 prepared. And that may be the case. But if we can
8 accommodate that at the hearing, they could put in their
9 testimony orally. And, as I say, their qualifications, we
10 do want that included in advance. That's always an aspect
11 of their testimony.

12 So I think that's what our ruling will be.
13 And we need to set some dates, however.

14 MS. CARROLL: Judge Bechhoefer, this is Glenn
15 Carroll.

16 CHAIRMAN BECHHOEFER: Yes?

17 MS. CARROLL: Pamela Blochy O'Brien is such a
18 special case, shall I say. And she is not going to be
19 agreeable about sitting in for a process. I think
20 everybody involved has already had plenty of evidence of
21 that. And at some levels I respect that.

22 What is the effect of limited public
23 appearance on the actual issues? I get the impression
24 it's almost a bone thrown to the public so that they feel
25 that they're helping but they don't actually have an

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1 effect. And I think Pamela --

2 CHAIRMAN BECHHOEFER: It's not evidence. It
3 permits the parties and the Board to request that the
4 parties develop anything that's particularly mentioned.
5 And we did that once. We did that on the security issue
6 earlier. I think that it was Ms. O'Brien's statement that
7 we took something out of and asked the parties to develop
8 it.

9 MS. CARROLL: So there is a possibility that
10 if she brings anything really meaty through that format,
11 that it will have the proper effect and it won't just
12 evaporate?

13 CHAIRMAN BECHHOEFER: That's true. And that
14 will be like a statement from anybody else. We are going
15 to allow a session for limited appearance statements.
16 And, as GANE suggested, we will try to do a couple of
17 two-hour sessions in the evening sometime.

18 MS. CARROLL: I think there should be a
19 session offered during the day as well. I don't believe I
20 actually thought that out, but I think that one session
21 should be offered for 9:00 to 5:00 working-type people to
22 be able to attend.

23 CHAIRMAN BECHHOEFER: Well, I don't know how
24 much demand there would be. We certainly would be
25 prepared to offer an evening session.

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1 MS. CARROLL: Well, that's always the risk at
2 these public hearings that there is no demand for it, but
3 I think it's very important to offer it. I think you
4 share that.

5 CHAIRMAN BECHHOEFER: I think an evening
6 session. I don't know whether we will need to offer two
7 separate sessions.

8 MS. CARROLL: Well, let me say on that that we
9 hope that you will offer a daytime session and an evening
10 session. We think the evening session might be what would
11 be considered odd even. That's why we specifically
12 mentioned that.

13 There would be other people. You know, the
14 students, for instance, might find it more accessible
15 during the day.

16 CHAIRMAN BECHHOEFER: Off the record for a
17 second.

18 (Whereupon, the foregoing matter went off the
19 record briefly.)

20 CHAIRMAN BECHHOEFER: We will plan to hold at
21 least one evening session. Whether we will hold another
22 one or not we will decide later on. We do think that, of
23 course, if there is a limited appearance session, Ms.
24 Blochy O'Brien could really almost say anything she wants
25 in certain time constraints.

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1 MS. CARROLL: We couldn't hold her to five
2 minutes.

3 CHAIRMAN BECHHOEFER: Well, you could even
4 have a few minutes more, but not too many more, maybe 10
5 or so. But she can talk. If she's going to appear as a
6 witness, she has to limit her statement to what's relevant
7 to the contention. And in a limited appearance session,
8 she can say anything she wants to.

9 So most of her 2-206 material would not be
10 relevant to the particular contention. And, of course, if
11 there are new issues raised, she could mention that in the
12 limited appearance session. Then it would depend on their
13 importance as to whether they become issues in the
14 proceeding or not.

15 I think following the filing of prepared
16 testimony, the only things that can be raised are really
17 new information, new events, that kind of thing, not
18 reiterating what you might have failed to locate earlier,
19 only because there has to be some cutoff date.

20 So to the extent you're going to use Ms.
21 Blochy O'Brien as a witness, you should file prepared
22 testimony and only on the subject matter of the contention
23 that's been admitted.

24 Other matters, if she wishes to make a limited
25 appearance, that's fine or if you decide you only want her

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1 to appear, rely on her statement of limited appearances,
2 you could do that, too.

3 We're trying to schedule a hearing and set
4 aside time for various witnesses. And I know that we're
5 trying to work it into a fairly limited schedule. I think
6 the week of May 20th is the first week that we could hold
7 the hearing given the requirements for filing prepared
8 testimony and that kind of thing.

9 MS. CARROLL: Well, I'm trying to work out
10 somehow so I can inform Ms. Blochy O'Brien what her
11 options are here. We all know she cares deeply about
12 this.

13 How do you think it will fly when we invoke
14 the fact that she represents million of people in the
15 fellowship of reconciliation affiliations? Could we get
16 her an hour for the limited public appearance?

17 CHAIRMAN BECHHOEFER: I doubt it.

18 MS. CARROLL: A half an hour? I mean, 10
19 minutes will not do, I know.

20 CHAIRMAN BECHHOEFER: Five or 10 minutes
21 maybe, maybe 15 on occasion, but, really, there is a
22 certain amount of limitations as to time. And it may
23 depend in part on how many other people wish to make
24 statements if we should schedule, for instance, the
25 two-hour evening session, which is I would say fairly

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1 likely. And we'll have to find out where we can hold
2 evening sessions and that kind of thing, but that could be
3 done.

4 MS. CARROLL: How much time did we use at the
5 prehearing conference last year? It seems to me it was
6 about three hours or maybe more.

7 CHAIRMAN BECHHOEFER: I think it was scheduled
8 for two. I don't know the precise time.

9 MS. CARROLL: I believe we ran over that. It
10 seems that we broke for lunch a little bit on the late
11 side. I'm sure we can look at the transcript and see, but
12 I think since we've intervened, a lot of interest has
13 built in this. And I don't think two hours are
14 sufficient.

15 CHAIRMAN BECHHOEFER: Well, if it isn't, we
16 could schedule additional sessions. If we start with an
17 evening session, for instance, we could perhaps. But
18 normally during the day when you're holding a hearing,
19 particular witnesses will be scheduled to come in in
20 general time frames. And in order for the particular
21 witness not to have to waste too much time, it's desirable
22 to be able to set aside a frame when we're likely to be
23 able to hear the witness and have cross-examination, et
24 cetera.

25 MS. CARROLL: Well, I'd like to specify that I

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1 think that we should schedule at a minimum four hours for
2 limited public appearance and that it needs to be more
3 than one session and that it would be terrible if we ran
4 out of time and if we told somebody they had to come back
5 to speak. That would not be okay because when you get a
6 person from the public to come out and address their
7 government once, I mean, you've got to hear them.

8 So we're going to need to have ample time to
9 accommodate them there. I think we're going to have to
10 have enough flexibility for as long as there's a lot of
11 people. I'm not saying there will be, but we need to be
12 able to do that.

13 CHAIRMAN BECHHOEFER: Well, if we schedule an
14 initial session and it appears there are many too many
15 people, we can then schedule an additional session.

16 MS. CARROLL: I don't think that's acceptable
17 because, like I said, somebody may have taken time off
18 work. They may have, somehow or another, worked that time
19 into their schedule.

20 And to put them off for another day and also
21 not for us -- I don't know if anybody else wants to, but
22 for us not to let the interested public know about these
23 times well in advance, I mean, if we set a time on Tuesday
24 for Friday, we won't be able to tell people this is
25 available. Maybe there were people who couldn't come on

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1 Tuesday but would have been able to come on Friday.

2 So we need to make every effort now to provide
3 for it head of time. It may not be perfect, but I'm
4 saying we need more than two hours. We need more. At
5 least I think it should be in two sessions, one in the
6 day, one in the evening, and that we have enough
7 flexibility to run long if we need to.

8 Now, this won't be for the benefit of Pamela,
9 but it will be to accommodate any number of citizens who
10 wants to.

11 MR. EVANS: This is Al Evans.

12 I'm wondering. Is there any way -- frankly, I
13 don't relish listening to speeches for four hours.

14 MS. CARROLL: You don't want to hear from the
15 citizens of Georgia?

16 MR. EVANS: I'm not interested in hearing
17 speeches by someone who has a view that I already know
18 their view. They're going to be hostile. Big deal. I'm
19 just wondering if there's any way that we can have both
20 things going on at the same time, have a court reporter --

21 MS. CARROLL: Absolutely not.

22 MR. EVANS: -- have a court reporter take down
23 the speeches and --

24 MS. CARROLL: Absolutely not.

25 MR. EVANS: -- let us get on with the hearing.

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1 MS. CARROLL: I mean, Al Evans, I probably
2 don't want to hear from your witnesses either, but I'm
3 going to suffer through it.

4 MR. EVANS: Well, I'm not talking about
5 witnesses.

6 MS. CARROLL: I'm talking about public witness
7 --

8 MR. EVANS: I'm talking about people making
9 statements.

10 MS. CARROLL: I'm talking about democracy.
11 Sorry it bores you.

12 MR. EVANS: Well, four hours does, yes.
13 That's true.

14 MS. CARROLL: Didn't know you were sitting on
15 such a hot issue, did you?

16 MR. EVANS: No. I've got other things to do,
17 though, that listen to somebody pontificate about they
18 don't like something.

19 MS. CARROLL: Well, you can go to the bathroom
20 or something.

21 MR. TURK: Your Honor, I hate to cut into this
22 conversation, but I just want to note that I found the
23 transcript for the last limited appearance session held on
24 February 1st of 1995. There were 21 persons who appeared.
25 The session lasted from 9:12 in the morning until 11:00,

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1 from 9:12 to 11:12. It seems to have gone exactly two
2 hours, two hours. There were 76 pages of transcript, of
3 which Pamela Blochy O'Brien took up 20.

4 So maybe we have to consider how much limited
5 appearance time has been allowed in the past in your
6 decision, Your Honor, as to how much additional time to
7 allow at this stage.

8 I would say that I certainly am not --

9 MS. CARROLL: "A Current Affair" has broken in
10 there. There's been a cobalt accident that has been --

11 MR. TURK: I'm sorry. Let me finish, please.
12 I certainly won't interrupt you.

13 I am not opposed to there being limited
14 appearance statements. I think a reasonable amount of
15 time is the proper course. I don't think allowing any one
16 individual an hour of speech making is a direct outcome.

17 Certainly for Ms. Pamela Blochy O'Brien, she
18 knows how to submit issues in writing. She's been doing
19 that. She continues to do that. And simply to give her a
20 public forum for an hour, stand up and raise the same
21 issues again that already are sitting within the
22 Commission does not seem to be an appropriate use of
23 anyone's time.

24 MR. EVANS: If we can limit the statements to
25 maybe 10 minutes a person, like in the House of

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1 Representatives?

2 MS. CARROLL: Well, Mr. Evans, I believe they
3 were limited to five minutes a person.

4 MR. EVANS: Well, that would be good. Yes,
5 limit it to five minutes. That's a good idea. Limit it
6 to five minutes a person. That would maybe move things a
7 little better.

8 MS. CARROLL: I mean, I'm not recommending one
9 or the other, but I'm letting you know that that's part of
10 the deal.

11 MR. TURK: We would note also for the record,
12 Your Honor, that anyone who wishes to present a limited
13 appearance statement in writing is free to do so. And
14 perhaps that directive to the public could be made known
15 at the time of oral appearances so that anyone who wishes
16 to say something additional would have an extra chance to
17 make comments in writing.

18 Your Honor, I'd like to come back to the
19 question also of what is a hostile witness in terms of
20 whether their testimony should be required to be prefiled.
21 I interpret the phrase "hostile witness" as not somebody
22 who simply says "I will appear if you subpoena me but not
23 otherwise." If the person has testimony to present that's
24 favorable to the party that wishes to call them, they are
25 not hostile to that party. They may not be cooperating,

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1 but they're not a hostile witness.

2 A hostile witness is someone who has testimony
3 that's favorable to a party but refuses to testify. Here
4 people are willing to testify that are just saying, "I
5 don't want to have the bad name of appearing on your
6 behalf. Therefore, subpoena me, and I'll be happy to
7 come."

8 That is not a hostile witness. That's
9 somebody who is looking for a procedural device to cover
10 their trail. There's no reason why a person like that
11 should not be required to submit testimony in writing in
12 advance.

13 CHAIRMAN BECHHOEFER: The waiver provision is
14 not only limited to hostile witnesses. We think it should
15 not apply in this case to people who are unwilling to
16 appear without a subpoena. And we will uphold our ruling
17 except where there are qualifications, which we think can
18 be looked at in advance and will save some time. Except
19 for that, we will not enforce the requirement for the
20 witnesses who have to be subpoenaed. We'll limit it to
21 that.

22 As for limited appearances, we'll speak under
23 everything that's been said. I think we would definitely
24 like to schedule one two-hour evening session. We'll have
25 to find a place we can do that.

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1 MS. CARROLL: You don't think we can do that
2 at the same place we have the hearing?

3 CHAIRMAN BECHHOEFER: It depends. I don't
4 precisely know where we're going to have the hearing yet.
5 I have some inquiries along that line as to what type of
6 facility might be available on campus. Is there a moot
7 court at Georgia Tech, that kind of facility?

8 MR. EVANS: Not to my knowledge because that's
9 an engineering school.

10 MS. CARROLL: A what?

11 CHAIRMAN BECHHOEFER: Yes. That's what I
12 thought. We have held hearings in moot courtrooms at
13 other schools, but in terms of what kind of facilities
14 would be available on campus. And I suppose you would
15 have to have a room that would hold not only the parties
16 of the Board, witnesses, but probably the additional
17 session 50 people. So I don't know what's available.

18 MS. CARROLL: Federal Trade Commission room.

19 CHAIRMAN BECHHOEFER: That room we like, if
20 available. Is that close to the university or not?

21 MS. CARROLL: It's not an ideal location, but
22 it sure is an ideal space. I mean, I don't think the
23 location's good. I don't know how the rest of GANE would
24 feel about this, but I think Georgia Tech campus would be
25 -- I personally think that that would be a good place to

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1 start looking. There may be a few folks in GANE that --

2 CHAIRMAN BECHHOEFER: I do know the --

3 MS. CARROLL: -- advantage or disadvantage to
4 us. But I would say --

5 CHAIRMAN BECHHOEFER: Well, I might say that
6 the Federal Trade Commission room is never open after 5:00
7 or 6:00 o'clock, whatever their closing time is. They're
8 not open in the evening. And it would be very difficult
9 to hold a limited appearance session there.

10 I would expect -- are there any rooms on
11 campus which a lot of people could appear at in some
12 evening at least or --

13 MS. CARROLL: There's an assembly room that is
14 probably a bit larger than what we need, but it has a
15 stage.

16 CHAIRMAN BECHHOEFER: Well, for limited
17 appearances you need a much larger space.

18 MS. CARROLL: I know the Department of Energy
19 and NRC have gotten hotel rooms. And we've griped
20 sometimes that they're down by the airport or not near
21 public transportation. We don't like that.

22 But the NRC has used the Peachtree Plaza Hotel
23 a lot for hearings.

24 CHAIRMAN BECHHOEFER: Yes. We would --

25 MS. CARROLL: That's a fine location. Inforum

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1 was used by the NRC for --

2 CHAIRMAN BECHHOEFER: What's that?

3 MS. CARROLL: That's not a bad location.

4 CHAIRMAN BECHHOEFER: That I haven't even
5 heard of.

6 MS. CARROLL: It's supposed to be a big
7 computer facility.

8 CHAIRMAN BECHHOEFER: Is there a meeting room
9 on campus where --

10 MR. EVANS: I feel there must be large meeting
11 rooms. I can't imagine not. Frankly, I don't know. I've
12 never looked into that.

13 CHAIRMAN BECHHOEFER: I would think for
14 limited appearances campus might be a reasonable place to
15 hold.

16 MR. EVANS: It would probably be convenient.

17 CHAIRMAN BECHHOEFER: Yes.

18 MS. CARROLL: It wouldn't be convenient. I
19 would like to say this. The Georgia Tech campus would
20 probably not be considered convenient by the population at
21 large in Atlanta.

22 CHAIRMAN BECHHOEFER: Oh, really?

23 MS. CARROLL: But you weigh it. As far as the
24 students, a lot of them don't have cars. And so it's hard
25 for them to get to off-campus locations. So it's a

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1 weighing out, you know, how to get there.

2 I think parking at night there would probably
3 be easier than during the day, when classes tend to be in
4 session. So more might be able to come at night.

5 CHAIRMAN BECHHOEFER: We certainly would not
6 be opposed to using a room on campus for limited
7 appearances because that would be available to other
8 people than students as well.

9 But we can inquire about that type of
10 facility. I'm sure there's somebody at Georgia Tech who
11 could be called. If they don't have a moot courtroom,
12 however, it might be better if we could get something like
13 the Federal Trade Commission room.

14 MS. CARROLL: That's not far from Georgia
15 Tech, really.

16 CHAIRMAN BECHHOEFER: Is that close to Georgia
17 Tech?

18 MS. CARROLL: It's not far. I'd say it's a
19 mile, a mile and a half. It's on a main through drag.
20 It's on Peachtree Street. You know, they should be able
21 to find it.

22 CHAIRMAN BECHHOEFER: They do have some
23 parking in the area. I know we parked there. I don't
24 know if it's a lot, but --

25 MS. CARROLL: It's expensive, but it's there.

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1 CHAIRMAN BECHHOEFER: I think it's two dollars
2 a day. You can't always find a place.

3 MS. CARROLL: They must have a special
4 government rate.

5 CHAIRMAN BECHHOEFER: There are no special
6 government rates. Just throw the thing in the meter
7 there. It's one of these meters that you throw. Right
8 behind the building there are several lots, two dollars a
9 day as of the last time we used it. That's fairly cheap.
10 The front I remember was six dollars a day. In Washington
11 standards, that's cheap.

12 So, in any event, I know we will try to
13 establish an evening session in a larger facility.
14 Whether or not we go for additional time in the daytime,
15 I'm not sure, but we'll take it under consideration.

16 MS. CARROLL: Thank you.

17 CHAIRMAN BECHHOEFER: Now, reading the
18 information in GANE's submission, the Board thinks it
19 would be very desirable to have available at least the
20 additional communications from Dr. Copcott to Georgia Tech
21 for reference.

22 MR. EVANS: I'm not sure what we're talking
23 about. I've read the one letter.

24 CHAIRMAN BECHHOEFER: There was a statement.
25 There was a statement right on the front page. No. Wait

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1 a minute.

2 MS. CARROLL: Yes. I think we iterated it in
3 the --

4 CHAIRMAN BECHHOEFER: It says there is an
5 update.

6 MS. CARROLL: -- rely on, but it's the bottom
7 of Page 1. There's a communication from Dr. Brian
8 Copcott, who is the Director of the Nealy Research Center.

9 MR. EVANS: It says, "We assume we must file
10 discovery requests with Georgia Tech and if that fails,
11 the documents from Dr. Copcott."

12 CHAIRMAN BECHHOEFER: The Board thinks those
13 documents might well be relevant.

14 MR. EVANS: I don't know if we have any other
15 than the ones that are already in the thing. I don't
16 know. Maybe we do. I'll check and find out, but I have
17 no idea what documents.

18 CHAIRMAN BECHHOEFER: Apparently this was
19 based on statements by Dr. Copcott.

20 MS. CARROLL: And they would have been
21 addressed to Dr. Carum. Whether he would have copied them
22 to the Nuclear Safeguards Committee and --

23 CHAIRMAN BECHHOEFER: It's not likely that
24 that kind of document would necessarily be sent to the NRC
25 at all.

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1 MS. CARROLL: Well, the Nuclear Safeguards
2 Committee, which is a campus organization.

3 CHAIRMAN BECHHOEFER: Oh, the campus.

4 MS. CARROLL: You know, his resignation
5 letter, although he said it was copied to the members of
6 the Nuclear Safeguards Committee, it was not in the notes.
7 We looked at all of those minutes. So it had not been
8 filed there. We actually obtained it from an outside
9 source.

10 And whether Carum kept the letter that was
11 given by Copcott or not, I wouldn't know. But if you
12 could look into that, Mr. Evans?

13 MR. EVANS: I'm not what I'm looking into. I
14 can write. I am intending to send a copy of your
15 submission to Dr. Carum. And I can say that "They are
16 interested in any documents that you have along this
17 line," but I'm not exactly sure what I'm looking for.

18 MS. CARROLL: Well, Copcott was there a very
19 short time.

20 MR. EVANS: I know.

21 MS. CARROLL: And prior to his resignation, he
22 had apparently submitted --

23 MR. EVANS: I can tell you what other --

24 MS. CARROLL: -- some letters concerning
25 safety violations or I don't know what's in them.

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1 MR. EVANS: Well, I could ask them what other
2 documents do we have relating to -- what are you looking
3 for, communications from Copcott to Carum?

4 MS. CARROLL: From Copcott to Carum.

5 MR. EVANS: What?

6 MS. CARROLL: Communications from Copcott --

7 MR. EVANS: To Carum?

8 MS. CARROLL: -- to Carum.

9 CHAIRMAN BECHHOEFER: It's referenced right on
10 the front page.

11 MR. EVANS: I see that, but I'm still not
12 exactly -- I mean, there are documents in here. There are
13 two or three. But you're looking for any other documents
14 not here included from Copcott to Carum. I could ask him
15 that.

16 MS. CARROLL: Yes, yes.

17 MR. EVANS: But I can't in blank. I have no
18 idea as to who else he may have written. If you just mean
19 what he wrote to Carum, that's fine.

20 MS. CARROLL: Yes. What we're interested in
21 was specifically stating they were to Carum. He may have
22 written more to other people, but he didn't indicate that
23 they would be important.

24 MR. EVANS: Well, okay. I mean, yes, I'll be
25 glad to ask. I have no idea as to what, if any, more

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1 there are. But I'll ask.

2 CHAIRMAN BECHHOEFER: Okay. The Board thinks
3 that those documents might be quite pertinent, might or
4 might not be. We don't know.

5 MR. EVANS: Yes. And we don't know if there
6 are any. But if there are --

7 MS. CARROLL: We know that there are some.
8 Whether Carum has them or not, we don't know.

9 MR. EVANS: Yes. That's the point. Also when
10 were these letters written? In '90?

11 MS. CARROLL: I would say so.

12 MR. EVANS: Yes.

13 MS. CARROLL: The letters -- I realize that
14 you haven't had time to examine those closely. There were
15 some letters, two letters, one year apart, Georgia Tech
16 courting Dr. Copcott to come to Tech.

17 CHAIRMAN BECHHOEFER: Those are in the record.

18 MS. CARROLL: And those are in the record.

19 MR. EVANS: Yes.

20 MS. CARROLL: And then there is one letter,
21 Dr. Copcott's letter of resignation, on October 8th. He
22 was employed there, I believe, between May and October.
23 And so May to October 1990 --

24 MR. EVANS: I don't know what he does. I know
25 personally I keep letters -- my reading file is about

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1 three years. Then I toss it. Personally I don't even
2 keep things that long, but he may. I don't know. We'll
3 find out. You know, I'll ask him.

4 MS. CARROLL: All right.

5 MR. EVANS: But sometimes it's pretty hard to
6 find a letter that's written back in '90. That's six
7 years ago. I mean, I think I keep four. I think right
8 now I'm back to about '92. I can check things. But, I
9 mean, on my own reading files, letters and stuff, after
10 three-four years, I toss them. I don't even keep them.

11 CHAIRMAN BECHHOEFER: Now, another thing we
12 wanted to discuss with respect to Dr. Copcott, GANE, of
13 course, has indicated that there's considerable expense to
14 bringing him to Atlanta. We would be prepared to -- I
15 don't know whether -- we would be prepared to work our
16 scheduling so that his time in Atlanta would be as short
17 as possible.

18 And I don't know whether he would want to fly
19 out on one of these specials where you have to stay a
20 Saturday night. If so, we could almost hear him first
21 thing Monday morning assuming we started the 20th. I
22 think we could work that kind of thing in to at least
23 reduce his expense.

24 MS. CARROLL: Well, Judge Bechhoefer, I've had
25 zero experience with a hearing of this type. Do you have

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1 any --

2 CHAIRMAN BECHHOEFER: Normally the --

3 MS. CARROLL: -- idea whether he would need to
4 sleep in Atlanta one night, two nights, three nights? I
5 mean, I just don't know what to anticipate. And GANE is
6 going to weigh this out.

7 I'm projecting that we will find the money,
8 and we will bring him in. But I'd still like to know what
9 we're talking about.

10 CHAIRMAN BECHHOEFER: Well, if you brought him
11 in on one of these cheap flights that you have to stay
12 Saturday night, you could bring him in Saturday. Then
13 he'd have to stay at least through until Monday. And
14 whether he could -- normally the applicant would put his
15 case on first. And then he would follow after at least
16 cross-examination and all that kind of stuff.

17 The applicant would normally lead off. Staff
18 would normally follow both parties. But order could be
19 changed. And we could lead off with Dr. Copcott and then
20 go into the applicant's testimony, which would be largely
21 prepared. So you'd know what would follow Dr. Copcott.

22 MS. CARROLL: You just said that the normal
23 sequence is applicant, the intervenor, and then the NRC
24 staff?

25 CHAIRMAN BECHHOEFER: Right.

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1 MS. CARROLL: Okay.

2 CHAIRMAN BECHHOEFER: Regular. Then the
3 applicant gets a chance to put in rebuttal testimony after
4 everybody else gets through. So they get a chance to
5 finish, really.

6 MS. CARROLL: Okay. But nobody else gets
7 rebuttal?

8 CHAIRMAN BECHHOEFER: That's correct.

9 MS. CARROLL: Apparently since you're
10 referring to these weekend saver rates, are they
11 significant enough to offset extra nights in a hotel? I
12 think we probably might spend \$100 a night on a hotel for
13 him.

14 CHAIRMAN BECHHOEFER: We're off the record for
15 a second. We'll be back in a minute.

16 (Whereupon, the foregoing matter went off the
17 record at 3:22 p.m. and went back on the
18 record at 3:23 p.m.)

19 CHAIRMAN BECHHOEFER: One correction for the
20 record. The other parties may have rebuttal witnesses.
21 There may be circumstances where that's warranted.

22 But, in any event, the applicant normally
23 leads off and concludes with the intervenor, then the NRC
24 staff following. But we would rearrange things to the
25 extent that it would be useful for Dr. Copcott to save

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1 money by taking weekend rates if that's necessary. I
2 mean, we would be willing to modify the schedule somewhat.

3 MS. CARROLL: Is that something that we can
4 address later when we --

5 CHAIRMAN BECHHOEFER: Of course.

6 MS. CARROLL: -- have the hearing schedule
7 more defined?

8 CHAIRMAN BECHHOEFER: I'm hoping to set a
9 hearing schedule today, but to actually define what will
10 happen in that schedule, we could change that around. We
11 would like to accommodate you to the extent we could save
12 you money in terms of bringing your witness in.

13 Now, I don't know. I personally am not aware
14 of whether they can use government rates or not if they're
15 under subpoena. But, be that as it may, government rates
16 aren't always that great. There are usually better rates
17 available.

18 MR. TURK: I don't think that anyone who is
19 not a consultant to the NRC would qualify for a government
20 rate.

21 CHAIRMAN BECHHOEFER: I'm not sure about
22 witnesses under subpoena. I don't know what the rule is
23 on that. But the government rates aren't so great anyway.
24 They're better than list price, and they probably don't
25 require a Saturday stay. I know they don't.

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1 The cheapest fares requiring over a Saturday
2 stays are usually better than the government gets. And we
3 will be willing to accommodate hearing schedules to take
4 into account any potential savings of cost that you might
5 --

6 MS. CARROLL: That would also work if we had
7 him on Friday. I mean, if he testified on a Friday and
8 stayed over on a Saturday and flew home on Sunday, it
9 would work that way, too; right?

10 CHAIRMAN BECHHOEFER: Yes, it would. It
11 would.

12 MS. CARROLL: Can he fly on --

13 CHAIRMAN BECHHOEFER: We'll accommodate that.

14 MS. CARROLL: -- either way, coming or going,
15 or do you have to leave Saturday out of --

16 CHAIRMAN BECHHOEFER: We don't know precisely
17 that the hearing will last to Friday, but --

18 MS. CARROLL: Well, it's looking like it to me
19 with all of this rebuttal and everything, but I guess
20 we'll get to that.

21 Judge Bechhoefer?

22 CHAIRMAN BECHHOEFER: Well, we will do our
23 best to accommodate that. And we would like to schedule
24 Dr. Copcott in a way that could minimize the expense of
25 bringing him from Los Angeles, which can be quite

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1 expensive. So we will do that.

2 MS. CARROLL: Judge Bechhoefer, during some of
3 the breaks I had a chance to look over the NRC discovery
4 requests. I haven't looked at it thoroughly, but what
5 they sent us to GANE about Rebecca Long. I know you
6 brought that up at the beginning of this conversation.

7 CHAIRMAN BECHHOEFER: Yes.

8 MS. CARROLL: And I have something to say
9 about it if this would be a good place.

10 CHAIRMAN BECHHOEFER: Well, let's first decide
11 on a schedule for filing prepared testimony and for the
12 initial hearing. If we started the hearing on May 20th,
13 that would mean that prepared testimony would have to be
14 filed by May 3rd would be the latest.

15 MS. CARROLL: We had tentatively said May 1.

16 CHAIRMAN BECHHOEFER: Yes. May 1 would
17 actually be better, which is a Wednesday, but because of
18 the time it takes to send prepared testimony and all of
19 that, it would be useful to file May 1. We could set that
20 date as the date that prepared testimony must be filed.

21 Then the hearing would start on Monday, the
22 20th.

23 MR. TURK: Your Honor, I think we might have a
24 problem with that schedule.

25 CHAIRMAN BECHHOEFER: That's tentatively what

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1 we said before.

2 MR. TURK: I understand. I was talking with
3 Mr. Evans about setting up depositions and also with Ms.
4 Carroll. Mr. Evans tells me that he's unavailable until
5 March 18th to begin depositions.

6 That week is all right for me, the first two
7 days, but there are two days in the week when I have to be
8 back here in Washington. So it really gives us only two
9 days during the week of March 18th and then the following
10 week, March 25th, to conduct depositions.

11 MR. EVANS: I blocked off that whole week for
12 depositions.

13 MR. TURK: The week of the 25th?

14 MR. EVANS: Yes.

15 MR. TURK: Yes. And then also we couldn't
16 carry over. I think the way our schedule looks now --

17 MR. EVANS: We won't have the transcripts
18 back, though. It might be the end of April before we get
19 the transcripts back.

20 CHAIRMAN BECHHOEFER: Why? You order two-day
21 transcripts or one-day transcripts. That could be done
22 for people who take depositions. We order one or two-day
23 transcripts all the time, including for this particular
24 conference.

25 MR. TURK: Without looking at the question of

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1 transcripts, however, in looking at GANE's witness list,
2 which currently includes these 9 individuals, I am
3 projecting that we would need approximately 12 days, 11 to
4 12 days, of deposition time, which means depositions
5 probably would not be able to conclude until sometime in
6 the beginning of April.

7 There are a couple of days during the first
8 week in April when I am unavailable due to religious
9 reasons starting the 3rd, 4th, and 5th. So we may not be
10 able to --

11 CHAIRMAN BECHHOEFER: That's a good reason to
12 get them done before April.

13 MR. TURK: Well, I agree. What I'd like to do
14 is schedule them almost consecutively starting with the
15 March 18th date except for dates that we're not available
16 to do them.

17 MS. CARROLL: Would it help you if I
18 resubmitted Joan King's, John Galloway's, and Rob
19 Johnson's notes as their -- I mean, that's the only reason
20 they're listed. And I feel that that might be easy.

21 CHAIRMAN BECHHOEFER: We don't think that they
22 will even be used as witnesses.

23 MS. CARROLL: I don't intend to call them.
24 They will be available if --

25 CHAIRMAN BECHHOEFER: Well, that's the only

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1 reason --

2 MS. CARROLL: -- anything is challenged about
3 what we said so that they could say what they read.

4 CHAIRMAN BECHHOEFER: Right. They don't have
5 to prepare anything as far as I'm concerned.

6 MS. CARROLL: I mean, I would not see why you
7 would want to depose them.

8 CHAIRMAN BECHHOEFER: I would not want to
9 accommodate the hearing schedule for -- those people will
10 not be called as direct witnesses on anything unless
11 there's a question raised about the records they refer to
12 or whether they did it accurately. That would not be part
13 of the direct testimony.

14 MR. TURK: Let me say, first of all, with
15 respect to deposition time, I was only assuming a half day
16 for each of them. But in my 11 to 12 days of deposition
17 time, I was only assuming a day and a half for those 3
18 together.

19 CHAIRMAN BECHHOEFER: Well, but you shouldn't
20 take their depositions at all. It's a waste of government
21 money.

22 MS. CARROLL: If it's a half a day for each
23 witness, that's three days. Oh, Al Evans has the other
24 half of the day.

25 MR. TURK: No. I'm saying a total deposition

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1 time of maybe three hours for each of them.

2 MR. EVANS: We're not going to ask repetitive
3 questions, you know.

4 MR. TURK: And the questions that would be
5 asked, Your Honor, in terms of whether it's a waste of
6 time really would be to establish who they are, what their
7 backgrounds are, their purposes in appearing in the case,
8 what they did in terms of reviewing documents, what it was
9 that they saw, what did they take down, what did they not
10 take down. It would not be a very extensive deposition.

11 And at this point I would intend to take it.
12 And I would state that we believe it would be a good use
13 of government resources. Since GANE has named them as a
14 witness, we're entitled to discover. And we would not
15 certainly waste time doing that, but I don't think that
16 Your Honor should tell us that it's a waste of government
17 resources. We don't consider that to be the case.

18 In terms of scheduling, they don't --

19 MS. CARROLL: But, yet, you won't let Rebecca
20 Long go to the ding-donged reactor with me. I think
21 you're talking out of both sides of your mouth.

22 MR. TURK: I'm sorry. I didn't understand.

23 MS. CARROLL: That last comment should be
24 struck anyway.

25 CHAIRMAN BECHHOEFER: I would not be willing

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1 to delay the time spent for depositions of that time. You
2 could work them in if you want to. But we've been told a
3 day and it has been implied in this other document that
4 they're not going to really be called as direct witnesses.

5 MR. TURK: But may I ask what's --

6 MS. CARROLL: We aren't going to call them.
7 They're merely there because I cannot testify to what they
8 read. And if it becomes a question, you are named.
9 You're told who read the documents that I filed. Maybe a
10 law firm wouldn't do that, but we aren't a law firm.

11 MR. TURK: What's the purpose, then, of the
12 notes? I mean, how --

13 MS. CARROLL: You asked for them.

14 MR. TURK: No. I understand.

15 MS. CARROLL: We didn't have the minutes. So
16 we gave you the notes. They took the notes. I wanted to
17 make sure you knew who they were. If you put me on the
18 firing line about the notes, I didn't take them. So I
19 wanted to tell you who took them.

20 We aren't going to call them. We provided the
21 notes to you. We regurgitated them to you in our
22 chronological order. We will make our interpretations of
23 them, which I'm sure you will disagree with.

24 But other than that, if you say this isn't
25 what it says in the minutes that that's what John Galloway

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1 put in the notes, he can take the heat for it. I can't.

2 MR. TURK: Then I take it you don't intend to
3 offer those notes into evidence?

4 MS. CARROLL: They're in there.

5 MR. TURK: I'm sorry?

6 MS. CARROLL: The notes are attached. All of
7 the notes, every single note, is attached to our recent
8 discovery response.

9 MR. TURK: No. My question, though, is I
10 assume that the notes were there to help you in preparing
11 for the case, but you do not intend to offer them into
12 evidence as --

13 MS. CARROLL: That's how we know what's
14 contained in the minutes since we don't possess copies of
15 the minutes.

16 MR. TURK: All right. So they're not going to
17 be offered into evidence by themselves. They're simply
18 there for you to understand what's in the minutes. If you
19 agree to that, then I don't think --

20 MS. CARROLL: I'm afraid to agree with that,
21 but it sounds right.

22 MR. TURK: I'm sorry?

23 MS. CARROLL: I'm afraid to agree with you. I
24 think there's a catch, but, actually, it sounds like what
25 you've said is right.

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1 MR. TURK: All right. In that case, I don't
2 have to depose them.

3 MS. CARROLL: My understanding of the minutes
4 is based on their note-taking of the minutes.

5 MR. EVANS: This is Al Evans.

6 I assume the notes are not going into
7 evidence.

8 MS. CARROLL: I hope they will. I don't know.
9 You put the minutes in. I mean, if you'll provide a copy
10 for the record of those minutes --

11 MR. EVANS: I'm not going to agree for
12 someone's notes to be going into evidence if they're not
13 there.

14 MS. CARROLL: Well, the thing is we're relying
15 on those minutes, and we don't possess them. We can't
16 afford them at Georgia Tech's copying rate. And so we
17 read them at Georgia Tech and took notes. And make of it
18 what you will, but we're relying on every single one of
19 those minutes.

20 MR. EVANS: I think whoever took the notes
21 needs to be there because I might want to cross-examine
22 him about what he left out or not. I don't know.

23 MS. CARROLL: Well, I mean, you can if you
24 want. They've been --

25 MR. TURK: The initial question, then, is:

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1 What is the use of the notes that you intend? If we get
2 an agreement now that the notes will not be offered into
3 evidence, but, rather, GANE may --

4 MS. CARROLL: We're going to offer them into
5 evidence.

6 MR. TURK: -- presenting questioning a witness
7 but the notes themselves don't go into evidence in
8 reference to them, if GANE cross-examines and says, "Well,
9 here in my notes I see that the minutes said X, Y, and Z,"
10 that kind of a statement would not be accepted into the
11 record as a factual statement of what the minutes actually
12 contain, then we don't need to cross-examine the --

13 MS. CARROLL: I can't follow this, but you
14 know what might be cheaper than a plane ticket is getting
15 copies of all those minutes and checking the notes against
16 the minutes and deciding for yourself if they are accurate
17 or not.

18 MR. TURK: But if a document goes into
19 evidence, it should be the document itself, the minutes
20 itself. If you wanted to introduce minutes into evidence,
21 then you should have a copy of it and you should introduce
22 it into evidence, not the secondhand hearsay statement in
23 the notes of what your probably unqualified reviewer read
24 into them. And, you know, we certainly --

25 MS. CARROLL: I'm sorry. The notes --

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1 MR. TURK: If you are going to introduce
2 minutes into evidence, then we don't need to question the
3 reviewers.

4 MS. CARROLL: The notes do have opinions
5 scattered, the human qualities that they have. But you
6 will not find in our discovery response a reliance on any
7 judgments on it, but, rather, on records of what the notes
8 said.

9 Some note-takers paraphrased. Some
10 note-takers quote.

11 MR. EVANS: I'm probably going to be objecting
12 to all notes if you try and put them in personally.

13 MR. TURK: Your Honor, perhaps we can get a
14 preliminary ruling now on whether the notes would be
15 admissible. If you would rule that they are admissible,
16 then we would need to depose the note-takers.

17 If you would rule that no, that the minutes
18 themselves, the primary documents, are the best evidence,
19 which is the law, and that you would not accept the notes
20 by these people in lieu of the actual documents, then we
21 don't need to depose them.

22 MR. EVANS: We can have the minutes in court,
23 I assume.

24 MR. TURK: If GANE feels that those minutes
25 are important, they can still go and copy them.

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1 CHAIRMAN BECHHOEFER: We're not going to rule
2 on the particular point right now. We might need legal
3 briefs on that. But I think if someone offered the
4 minutes themselves --

5 (Whereupon, the foregoing matter went off the
6 record briefly.)

7 CHAIRMAN BECHHOEFER: We would clearly accept
8 the minutes. Now, whether the notes of the minutes would
9 even be acceptable in evidence, I can't tell you. It's a
10 legal question, and we might have to raise that later if
11 it becomes relevant. Clearly the minutes themselves are
12 best evidence for that.

13 JUDGE LAM: This is Peter Lam. If I may go
14 back to what Mr. Turk was talking about?

15 Mr. Turk, does the May 1st schedule propose an
16 undue hardship to do the prefiled testimony that you were
17 referring to?

18 CHAIRMAN BECHHOEFER: That's filing, not
19 delivery, dropping it in the mail on May 1st.

20 MR. TURK: Yes, it does, Your Honor, because
21 what I contemplate in terms of our deposition schedule
22 will be the depositions will probably be able to close
23 around -- it wouldn't be possible by then, but during the
24 week of April 8th, we should be able to wrap everything up
25 in terms of depositions.

1 CHAIRMAN BECHHOEFER: So you're asking us to
2 extend the discovery schedule to April 8th.

3 MR. TURK: Well, during the week of April 8th.
4 So I would think if you could extend that to April 12th,
5 we were able to close discovery by then. That's a 2-week,
6 10 working day, extension.

7 But then after concluding the depositions and
8 after having been involved in them almost nonstop for two
9 and a half weeks, we need to sit down with our witnesses
10 and begin to focus on preparing testimony. And I think
11 that is likely to take at least the three to four weeks
12 that we talked about before, possibly more depending on
13 what we have to address as a result of these depositions.

14 For instance, if Dr. Copcott comes up with new
15 information that the staff was not aware of previously, we
16 will need to examine that information and take it into
17 consideration, and not just what he has to say, but the
18 other witnesses as well.

19 So I would think that we probably would have a
20 hard time preparing testimony for filing before, I would
21 say, May 17th, which is 5 weeks from the date we would
22 close discovery. And that's a tight schedule.

23 MR. EVANS: We can't do it before the
24 Olympics, then.

25 CHAIRMAN BECHHOEFER: What do you think --

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1 MR. TURK: We could if we just put hearings
2 off until the beginning of June, hold the hearings in
3 June.

4 MS. CARROLL: That's not acceptable because of
5 the unavailability of the student population. They're not
6 back in session until October.

7 MR. TURK: I'm sorry. I thought that what we
8 were addressing now is when the hearing could be held, not
9 when students are able to attend.

10 MS. CARROLL: This is a public hearing. The
11 public needs to be able to attend.

12 MR. EVANS: If the door is open, it's a public
13 hearing.

14 MS. CARROLL: The Georgia Tech student
15 population is a highly affected segment of that
16 population.

17 MR. TURK: I'm not asking to extend this
18 beyond the Olympics. I would think that the entire
19 hearing should be held either before or after the
20 Olympics, rather than holding only a portion beforehand.

21 MS. CARROLL: I would agree with that.

22 MR. TURK: But I would say let's just set the
23 date with a little more cushion of time in here to allow
24 us to do the job properly and, instead of pushing to have
25 the hearing start on the 20th, move it back by 2 weeks to

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1 June 3rd.

2 MS. CARROLL: Unacceptable to GANE.

3 MR. EVANS: Al Evans.

4 I would strongly favor that. I just think it
5 is, frankly, almost an impossible schedule to be looking
6 at other things I have, too. But looking at getting the
7 witnesses' statements and all of that and discovery, I
8 don't see how that could be done by May 20th.

9 MS. CARROLL: I will say, GANE will say, I
10 will say for GANE on the record that there's no magic to
11 GANE in having these public hearing before the Olympics.
12 So where we would object to the week of June 3rd, we would
13 be fine with doing it sometime in October. If all the
14 parties agree to accept the schedule for the lawyers, GANE
15 sees this hearing being in October. And that would be
16 acceptable.

17 MR. TURK: Perhaps there's one other thing we
18 should ask at the same time, Your Honor. As I understood
19 GANE's filing, in their perfected responses to discovery,
20 they look at May 20th as the last possible week to hold
21 hearings.

22 My own view of how much time will be required
23 for hearing is that if GANE does put on the six
24 substantive witnesses they're talking about and the staff
25 puts on two or three panels of witnesses and the applicant

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1 puts on several witnesses, we won't conclude in a week
2 anyway. I would think that it will be a two-week hearing,
3 not a one-week hearing.

4 MS. CARROLL: It's a compromise to me, Mr.
5 Turk, speaking for GANE, that if the second week of
6 hearings flowed into the week when students are not
7 actually taking exams but are studying for them, which is
8 very stressful, that would be a liveable compromise.

9 I actually earlier in the conversation hoped
10 that we would find a schedule since we only are offering 6
11 substantive witnesses and we had talked about 30 and we
12 had set this April 1 deadline and this May 1 deadline
13 previously.

14 I was hopeful we were actually going to find
15 out we could do it earlier. But we sort of made our peace
16 that it's the second week. And it may not be a full week,
17 but a second week. During studying week, that would not
18 be ideal, but we would I don't think disagree with that.

19 MR. TURK: My proposal, Your Honor, would be
20 that the hearing begin June 3rd. And we expect that it
21 will last for two weeks. And I propose that the testimony
22 be filed two weeks before the 3rd of June.

23 MR. EVANS: Al Evans.

24 I think that's a more liveable schedule.

25 MS. CARROLL: Can I go to the bathroom? This

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1 is Glenn Carroll. I'm going to check out for a minute,
2 folks.

3 CHAIRMAN BECHHOEFER: We'll stay on. Hurry up
4 back.

5 MS. CARROLL: I'll be quick.

6 (Pause.)

7 MS. CARROLL: I'm back. Thank you.

8 MR. MENDONCA: Your Honor, this is Marvin
9 Mendonca.

10 We took the opportunity to take a restroom
11 break also. So we'd like to hold off for a little while.

12 CHAIRMAN BECHHOEFER: Hold off what?

13 MR. MENDONCA: Further discussion.

14 CHAIRMAN BECHHOEFER: Oh, okay. Okay.

15 (Whereupon, the foregoing matter went off the
16 record at 3:54 p.m. and went back on the
17 record at 4:22 p.m.)

18 CHAIRMAN BECHHOEFER: Back on the record. We
19 have inquired of -- let me ask. What is the last day that
20 students are going to be around for any purposes?

21 MS. CARROLL: Let me get my calendar warmed up
22 again here. Exams are scheduled for the week of June 3rd.
23 Okay? And I'm sure all of you can attest to this. When
24 you were in college, the minute your exams were over, you
25 left. And while you were in exams, that was pretty much

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1 all you did. But, anyway, that is the week exams are
2 scheduled.

3 MR. EVANS: They're going to be studying the
4 week before. So what's the difference?

5 MS. CARROLL: Exactly.

6 CHAIRMAN BECHHOEFER: Well, would they have
7 time? I remember going through a lot of exam periods when
8 I didn't spend 100 percent of my time either studying or
9 taking exams.

10 MS. CARROLL: But you're extra smart, Judge
11 Bechhoefer.

12 CHAIRMAN BECHHOEFER: What?

13 MS. CARROLL: Here's my thing, to reiterate.
14 We were talking two weeks. And the first week would be
15 the ideal week or the last ideal week for us, and the
16 second week would have been during studying period. We
17 would live with that.

18 But if you're going to start during exam week
19 and flow into a week when nobody is there, we object. And
20 I'm not --

21 CHAIRMAN BECHHOEFER: Well, we had made a
22 proposal to start on May 29, which is a Wednesday, and go
23 through the 7th, which is the end of the following week,
24 perhaps holding sessions on Saturday morning, and just
25 doing it, figuring the 10 days or so or 8 or 9 days of

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1 hearing would be sufficient.

2 MS. CARROLL: Well, could GANE get everybody
3 to look at a way of tightening up a little more so that we
4 maybe started on the 22nd and went through the study week?
5 I thought I heard --

6 CHAIRMAN BECHHOEFER: Well, that's a holiday.
7 I would --

8 MS. CARROLL: -- Mr. Turk he was going to have
9 to find out what everybody's qualifications are. Well, if
10 GANE gets that to you quickly enough, does that save you
11 some deposition time or guide your questioning in a way?

12 CHAIRMAN BECHHOEFER: I don't think that would
13 be a liveable week because you've got a holiday the next
14 week. We were proposing --

15 MS. CARROLL: The 27th.

16 CHAIRMAN BECHHOEFER: Yes. And we --

17 MS. CARROLL: Well, if we go two weeks, do you
18 guys hang around Atlanta over the weekend or do you go
19 home and come back?

20 CHAIRMAN BECHHOEFER: Well, the way I was
21 proposing it, we would stay down and start the 29th. And
22 we would go through the end of the next week if that much
23 time was required.

24 MS. CARROLL: So you're thinking travel the
25 28th. That's why you picked the 29th to start?

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1 CHAIRMAN BECHHOEFER: Yes.

2 MS. CARROLL: I would feel like I was being
3 lax if I just caved into that. That's not a good time for
4 the student population.

5 CHAIRMAN BECHHOEFER: Well, actually --

6 MS. CARROLL: I mean, an extracurricular
7 activity like this would be undue pressure on them. You
8 know, students commit suicide when they're under exam
9 pressure.

10 CHAIRMAN BECHHOEFER: Students also do a lot
11 of extra exam periods. I used to.

12 MS. CARROLL: But you're so smart.

13 CHAIRMAN BECHHOEFER: I'm not sure that we can
14 schedule a hearing based on the availability of any
15 outside people.

16 MS. CARROLL: Well, I feel like it's my
17 responsibility to plead extraneously. And the students I
18 talked to concurred. They really were so pleased to have
19 us concerned about their ability to be present. And I
20 know they're --

21 CHAIRMAN BECHHOEFER: If we begin the 20th, we
22 could. But starting the 22nd wouldn't count much because
23 that would be --

24 MS. CARROLL: I see your point. Why don't we
25 wait until October? I know that's irregular, but --

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1 CHAIRMAN BECHHOEFER: We're expected to come
2 up with a decision long before that.

3 MS. CARROLL: But the Olympics. You can't
4 help it. You can't even get on Tech campus. You can't
5 get close to Tech campus after June.

6 CHAIRMAN BECHHOEFER: That's correct. We want
7 to hold the hearings before that.

8 MS. CARROLL: Wait a minute. Wait a minute
9 now. I don't know how I feel about this. I'm thinking
10 out loud. There's a weird summer session. There's a real
11 short summer session. It's making the fall session start
12 late. And I don't know what this summer session is. You
13 know, it gives the Olympics time to clear out.

14 And there's the par Olympics, I believe, after
15 the Olympics, whatever that is.

16 MR. EVANS: That's college Olympics. I think
17 that's about a week or something.

18 CHAIRMAN BECHHOEFER: I think that the only --

19 MS. CARROLL: They're having a short summer
20 session on campus. And it's going to make the fall
21 session start late. That's why I keep saying October,
22 because the summer session is going to run into September.

23 And, of course, I don't know how many of you
24 guys went to summer school. I did. But the regular
25 student body was not there during the summer.

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1 CHAIRMAN BECHHOEFER: I would think that it
2 would be preferable to hold it, even if it's exam period,
3 because the primary beneficiary should be the parties.

4 MS. CARROLL: No. I'm an advocate for the
5 public. And I think that it's already really hard for
6 them to follow. And if we have it at a bad time --

7 CHAIRMAN BECHHOEFER: Do you want your
8 students to present limited appearance statements or --

9 MS. CARROLL: We want them to hear what's
10 going on if they're concerned. I want them to be able to
11 come and listen to it if they care about it. And, yes, a
12 limited appearance statement is an important part of that.

13 MR. EVANS: They could come and listen even if
14 we do it in July.

15 MS. CARROLL: They're under exam pressure. I
16 think it will be a difficult choice for them to make.

17 CHAIRMAN BECHHOEFER: We would be willing to
18 schedule an earlier limited appearance session if that
19 would be desirable.

20 MS. CARROLL: Ideally to me, even if it
21 wouldn't be at the end, it wouldn't be the first thing
22 because I think that the public should have the
23 opportunity to hear some of the issues and then make their
24 statement responsive to it. And not all public citizens
25 would do that, but some might.

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1 MR. TURK: Can I make an observation based on
2 the hearings that I've been involved in? Members of the
3 public often do come to the hearing, but very few of them
4 are going to sit through more than an hour or two of them.

5 Hearings tend to be very boring to people who
6 are not involved in the actual litigation. But if you
7 think that there are students who would attend for an hour
8 or two, then there's no reason to think that they couldn't
9 do that, even during the week before they're studying for
10 exams or after exams take an hour break, if they're really
11 interested enough to do it or maybe their own particular
12 exam schedule allows them to do it. I don't know which
13 students we're talking about in particular or what their
14 exam schedules are.

15 MS. CARROLL: Of course, we think the whole
16 nuclear industry loves the secrecy, loves the impression
17 that it's difficult to understand. And we strain to make
18 these issues available to --

19 MR. TURK: That's certainly not anyone's
20 objective here, not certainly on my part.

21 MS. CARROLL: Of course not. It's certainly
22 mine. And it's an important one. But I think I'm the
23 only person on this conference call that holds that view.
24 And that's why I'm coming on so --

25 CHAIRMAN BECHHOEFER: I think given what we've

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1 heard from all parties, starting on the 29th, which is a
2 Wednesday, of May would be desirable. And we could run it
3 through this -- well, we'll plan on running through the
4 7th.

5 One of the things we could do is if we're
6 there on a Saturday, that Saturday we could hear limited
7 appearance sessions during part of that Saturday. We
8 normally don't like to schedule things on Sunday, but --

9 MS. CARROLL: I would vote for that. Let me
10 say I really appreciate --

11 CHAIRMAN BECHHOEFER: If you wanted a daytime
12 session -- and we do plan to hold an evening session in
13 any event --

14 MS. CARROLL: I think a Saturday session --

15 CHAIRMAN BECHHOEFER: -- in order to meet that
16 session, to work that in as part of Saturday, that would
17 be fine. That would require that prefiled testimony be
18 filed by May 14, dropped in the mail by May 14. That
19 postpones it a little less than two weeks from what we had
20 said before.

21 MR. TURK: Could I request that we be required
22 to file on the 17th to assure delivery by the 20th? In
23 other words file Federal Express, next day delivery on the
24 17th?

25 MS. CARROLL: I think we're supposed to have

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1 14 days for prefiled testimony, aren't we?

2 MR. TURK: The rules allow the Licensing Board
3 Chairman the prerogative to adjust those times.

4 MS. CARROLL: Well, I think we ought to
5 question the amount of time the lawyers think they need.
6 I mean, I haven't heard any question about that. Maybe
7 that's because it has to come from me.

8 CHAIRMAN BECHHOEFER: I don't think they want
9 to delay.

10 MR. TURK: May I ask one question before we
11 get too far along? As I understand it, Pamela Blochy
12 O'Brien is still named to be a witness?

13 MS. CARROLL: She is still named to be a
14 witness.

15 MR. TURK: So at this point you're not
16 withdrawing her?

17 MS. CARROLL: I'm going to discuss with her
18 what came out today. And I will accept her choice. I
19 think it's pretty clear what her choices are. And I will
20 let you know right away which way she goes.

21 MR. TURK: That's certainly going to affect
22 the deposition time that I have mapped out.

23 MS. CARROLL: I am certainly going to
24 encourage her to prefile testimony. I think that's her
25 best bet because if you're going to give her a maximum of

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1 15 minutes for limited public appearance, I think she
2 needs more time than that to say what she knows.

3 MS. CARROLL: Right. She would be able to
4 submit a written limited appearance statement as well.

5 MS. CARROLL: Mr. Turk?

6 MR. TURK: Yes?

7 MS. CARROLL: How important is it if you and
8 Al Evans share information about the questions you're
9 asking? How important is it that you're physically
10 present for the deposition?

11 Couldn't you set your own schedule to dovetail
12 where you could, but by sharing, you know, the questions
13 you're going to ask? I mean it's, like, as far as I've
14 ever seen, it's totally cut and dry.

15 Well, I guess, I mean, make up questions on
16 the spot, according to what you hear, maybe you guys
17 wanted to consult each other, but.

18 MR. TURK: No, I don't plan to consult with
19 Mr. Evans in advance, but it definitely would be important
20 for both of us to be present during a deposition.

21 And that would, in fact, help cut down the
22 number of questions that get asked, to avoid duplication.
23 But I have no idea what questions he would intend to ask
24 him. I don't intend to ask him in advance.

25 CHAIRMAN BECHOEFER: Well, let me add this.

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1 What we will require is one of two things. Either that
2 the prepared testimony by filed by Tuesday, May 24th, or,
3 alternatively, reach us, be in our hands by the 20th.

4 If it's postmarked by the 14th, and it doesn't
5 get to us by the 20th, well, so be it. You never can tell
6 on the mail. If the staff -- the staff will probably just
7 have to walk it over here, perhaps. They can file by the
8 17th.

9 Any other party who wants to file by Federal
10 Express can file the 16th or 17th. I don't know what the
11 service is. And, as long as it's, will get to us by the
12 20th. That will be okay.

13 MS. CARROLL: So I'm to take it that the
14 discussion Mr. Evans was referring to, the desired
15 schedule, is no longer the question?

16 CHAIRMAN BECHOEFER: Well, it doesn't appear
17 that we could work -- the earlier dates just don't seem to
18 work.

19 MS. CARROLL: I mean, you were all fine, but I
20 was asking why they have to do their depositions together.

21 CHAIRMAN BECHOEFER: Well, that's --

22 MS. CARROLL: Which seems to be a restriction,
23 because Mr. Evans is going to be travelling, and Mr. Turk
24 is going to be observing his religion. I don't see why
25 that should be imposed on --

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1 MR. TURK: We're not, in fact. I intend to
2 waive the religious issue, and in order to accommodate Mr.
3 --

4 MS. CARROLL: I would stand by you in honoring
5 it, but --

6 MR. TURK: Well, we worked it out so that if
7 your witness in Los Angeles is available, we'll take him,
8 perhaps, on the third. Rather than on the first or
9 second. That accommodates both Mr. Evans, and I can live
10 with that, too.

11 MS. CARROLL: But see now --

12 MR. EVANS: I've got a meeting here on the --
13 it's April, let's see. We can work that out, but as far
14 as hearings, I don't think it will affect the hearing.

15 MS. CARROLL: Yes, but see, we have -- and I
16 think this is tentative, although I wrote it in my
17 calendar, which I don't usually do.

18 But, if you move the April 1 deadline to April
19 5 -- oh, because you're having holidays the third, fourth,
20 and fifth? I'm with you now. I see why three days.

21 But you can't interview Copcutt, until some
22 time that week, and you have a restriction. Is that
23 right, Mr. Carroll? I mean, that week is very --

24 MR. TURK: No, we can do Copcutt during that
25 week. It would be hard for me to get to Atlanta that

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1 week.

2 MS. CARROLL: Right, and you were coming to
3 Atlanta the week before, and that all worked out.

4 MR. TURK: And the week after.

5 MS. CARROLL: Okay. So then the week after --
6 I mean, why can't you do our six witnesses in five days?
7 You've got five Atlanta witnesses. Why can't you do them
8 in five days?

9 CHAIRMAN BECHOEFER: Well, we think that the
10 schedule that we've set will work fairly well.

11 MS. CARROLL: Well, we don't, and --

12 CHAIRMAN BECHOEFER: Well --

13 MS. CARROLL: -- we would like to work on the
14 front end of it, because I think the Honors have extended
15 each deadline by a month, and I don't see the
16 justification for that.

17 I would like to raise the question, and, if
18 I'm out of line, just tell me, and I guess I'll be quiet.

19 MR. TURK: The major problem we have is, if
20 you are going to be presenting witnesses, who may not even
21 be prefiling written testimony, we're going to need pretty
22 good depositions to figure out what it is they're going to
23 say.

24 You have at least one witness named who goes
25 on for a while, and I don't expect her deposition to take

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1 just a short amount of time.

2 CHAIRMAN BECHOEFER: I think the schedule that
3 we've been talking about, starting the 29th, is pretty
4 good, and it will enable us to stay in a two week --
5 essentially, a ten day period, to get through the whole
6 thing at once.

7 And that will give us somewhat more
8 flexibility as to when we can schedule particular
9 witnesses, and that should help GANE, in terms of bringing
10 in witnesses from the Pacific Coast.

11 But, anyway, I think we will -- now, we'll be
12 flexible on limited appearances, and we can schedule
13 limited appearances for, like, Saturday, June 1, or we can
14 set it --

15 MS. CARROLL: Saturday, June 1, sounds good.
16 But, like, where is GANE going to fall in this mix?
17 You've got Applicants, Intervenors, staff, and then
18 rebuttals. Are we going to be in the first week, or in
19 the second week, like, are we going to --

20 CHAIRMAN BECHOEFER: Well, I don't -- we won't
21 know. Until we get to the prepared testimony, it will be
22 hard to estimate how long it will take.

23 Normally, though, as I said, we would work in
24 -- we would arrange to hear what's his name? Copcutt. We
25 would arrange to hear him at whatever time is most

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1 convenient for him to get to Atlanta and back, and save
2 him money or whatever.

3 We will be very flexible about - we can put
4 him on at any time requested. That GANE could file -- you
5 know, you could ask us, and we would accommodate his
6 testimony by scheduling him at whatever time would be most
7 convenient for his, whenever his plans are.

8 MS. CARROLL: Wait a minute, y'all, sorry.
9 I'm a little late on the uptake. I can't do it then. I
10 cannot participate in the hearing then. I'll be working.

11 CHAIRMAN BECHOEFER: Working when?

12 MS. CARROLL: I have a client, and I'm booked.

13 CHAIRMAN BECHOEFER: For which --

14 MS. CARROLL: I apologize for -- I worked it
15 out with her ahead of time, so I would know what my
16 restrictions were.

17 CHAIRMAN BECHOEFER: For what period of time
18 is this?

19 MS. CARROLL: It's precisely the two weeks he
20 picked, and I had made some mental notes, and it does pay
21 off perfectly with when the GANE witnesses were not
22 available.

23 So I guess I could figure out who's going to
24 win on that issue. It looks like we're in great shape to
25 do it earlier, since, you know, GANE only has six

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1 witnesses and everything. But --

2 MR. TURK: Glenn, you're unavailable which
3 days?

4 MS. CARROLL: I'm unavailable -- actually, it
5 grinds on a little bit. But that last week of May, the
6 27th through the 31st, that first week of June, the 3rd
7 through the 7th.

8 And, then, I would be grinding on into June
9 10th through 12th. I'll be at the printers, and I'll have
10 to nurse it along. I won't be fully booked.

11 MR. TURK: So you're not free until June 12th?

12 MS. CARROLL: I've got another hearing that
13 week. So, you know, June 17th, and I'm not backing down.
14 I think that, considering that we worked this out ahead of
15 time with the students, too.

16 That is a big, big issue to GANE, choosing a
17 time, that, specifically, was figured out ahead of time to
18 allow this. But, anyway, I would be loathe to ask my
19 client to accommodate me on this. I need them to survive.

20 MR. TURK: Well, Your Honor, I don't know what
21 to do about that. I do feel the hearings are going to
22 take more than a week, so that, even if --

23 MS. CARROLL: I do, too. I think it's going
24 to take longer than ten days.

25 MR. TURK: Even if you went with the first

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1 idea, of starting hearings May 20th, we couldn't conclude
2 because of Ms. Carroll's unavailability. We may have to
3 defer until June 17th, to begin.

4 MS. CARROLL: I don't think you dare get into
5 June 17th. You'll definitely run into the Olympics.

6 MR. TURK: I don't know.

7 MR. EVANS: I don't know that you run into
8 them that early, do you? The Olympics start about mid-
9 July.

10 MS. CARROLL: Yes, but everybody comes in, and
11 starts training and everything, don't they?

12 MR. EVANS: Not that I know of.

13 MS. CARROLL: All the press people come in,
14 and get, like, pre-Olympics stories? I don't know.

15 MR. EVANS: I would have thought we were good
16 in June. I would not -- I would think we need to be
17 through in June. I don't know of anything going on in --
18 until, before July.

19 MS. CARROLL: But boy, we will so clearly be
20 out of bounds on including the public --

21 MR. EVANS: Well, you know --

22 MS. CARROLL: -- the voices of the public on
23 that.

24 MR. TURK: Well, there's still a lot of public
25 walking around, I mean.

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1 MS. CARROLL: Yes, but to say that is right
2 there, they're young people. You know, they have the most
3 risk.

4 MR. EVANS: Well, I'm just not used to that.
5 Usually, I'm used to judges scheduling trials, and, if the
6 students can't get there, they can't get there, and that's
7 the way the cookie crumbles.

8 MS. CARROLL: Well, didn't you ever -- well,
9 yes, you were involved in the Tech reactor, but it wasn't
10 -- you didn't go to a public hearing with it.

11 MR. TURK: You know, I took a look at my
12 calendar, and I do have hotel reservations for the whole
13 week of June 17th, in Atlanta. So, at least that week
14 seems to be clear.

15 And maybe we can find out how the week of June
16 24th is, and that would do it. We could stop by June
17 28th, two weeks of hearings and we're out.

18 MR. EVANS: I can do that. I'm just saying I
19 can -- I'm available those two weeks.

20 MS. CARROLL: I'm not.

21 MR. MENDONCA: I cannot.

22 COURT REPORTER: Who is that?

23 MS. CARROLL: Is that the court reporter?

24 COURT REPORTER: No, it wasn't, but I'd like
25 to know who that was.

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1 MS. CARROLL: Was that --

2 COURT REPORTER: Who was that, please?

3 MS. CARROLL: I don't know.

4 CHAIRMAN BECHOEFER: Who was that person who
5 said I cannot, Mr. Mendonca?

6 MR. MENDONCA: Mr. Mendonca made a very
7 emphatic statement. He's talking about June 27th, and I'd
8 like to talk with him and all the witnesses, and see when
9 they are available. You know, we're all assuming that, if
10 we set a date, the witnesses can attend, and we don't know
11 that.

12 CHAIRMAN BECHOEFER: I assume we have subpoena
13 power for witnesses.

14 MR. MENDONCA: I'll put this on the record.
15 That's right, Mr. Mendonca.

16 MS. CARROLL: And that was day he was getting
17 married, darn.

18 MR. MENDONCA: Mr. Mendonca just offered to
19 have you call the witnesses.

20 MS. CARROLL: I can't, I'm getting married.

21 CHAIRMAN BECHOEFER: I'll put it this way.
22 When we were scheduling, before, I anticipated the first
23 week would be the week of May 20th, and that the second
24 week, to the extent needed, would be either the June 3rd
25 or June 10th week. And I had thought GANE would have

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1 planned for two weeks worth.

2 MS. CARROLL: I'll tell you, I can be flexible
3 on that first week, but that June -- that week in June,
4 I'm sorry, I'll start over again. I can be flexible on
5 the week of the 27th. I have no flexibility on the week
6 of June 3rd.

7 CHAIRMAN BECHOEFER: But what about the --

8 MS. CARROLL: I'm comfortable with it,
9 because, I mean, I've already have taken a huge hit doing
10 this, and to screw my big client up is real scary.

11 CHAIRMAN BECHOEFER: What about that week of
12 June 10th? That was the other one.

13 MS. CARROLL: I just can't get off then. It's
14 not acceptable. If the student body is not in session --

15 CHAIRMAN BECHOEFER: No, I'm saying, if we
16 started the hearing on the week of the 20th --

17 MS. CARROLL: And then skip --

18 CHAIRMAN BECHOEFER: And then -- yes.

19 MS. CARROLL: Skip tow weeks, and then came
20 back?

21 CHAIRMAN BECHOEFER: All witnesses don't have
22 to file their testimony at the same time.

23 MS. CARROLL: I think the question is how can
24 we do this May 13th, and May 20th, those two weeks.

25 MR. EVANS: I can -- that's the, you know --

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1 MS. CARROLL: If you all weren't trying so
2 hard to blow GANE out of the water, you could do it. You
3 haven't got the troops on your side, that's your problem.

4 MR. EVANS: I'll be out of state, for at least
5 the start of the week of May 13th.

6 MR. TURK: Your Honor, would it be appropriate
7 for the parties to talk among themselves, and see if we
8 can come up with a joint proposal for schedule, and maybe
9 reconvene on this issue tomorrow, or the beginning of next
10 week?

11 CHAIRMAN BECHOEFER: I'm going to be out of
12 town next week, and I've got to be working on other things
13 tomorrow.

14 MS. CARROLL: This is the last time we could
15 all get together for three weeks, as I understood it.
16 Maybe we're stuck together. This is the end game.

17 CHAIRMAN BECHOEFER: I can -- any weekend you
18 all want to start it in June is fine by me. Well, they
19 can talk among themselves, too.

20 (Chatter.)

21 Yes, but I want to ask -- I have a couple of
22 questions to ask before we sign off, and --

23 MS. CARROLL: And I had one the about Rebecca
24 Long.

25 CHAIRMAN BECHOEFER: Well, that was one of our

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1 -- but we think can perhaps resume tomorrow. Dr. Lam will
2 not be available, but we'll have a quorum at least, and we
3 can resume tomorrow.

4 But let me suggest one thing. Not all
5 prepared testimony need be filed on the same date. The
6 rules talk about 15 days before the session of the hearing
7 at which the guy, person will testify - I shouldn't use
8 guy.

9 The staff does not, in any event, testify
10 first, so they can delay their filing and prepared
11 testimony presumably 15 days before whenever would be a
12 reasonable date to expect them to testify. So they would
13 have a few extra days, in any event, if we set a schedule
14 like that.

15 MR. TURK: I know that one of our witnesses
16 will be Mr. Mendonca, and I would expect that he'll be
17 attending the hearings while other witnesses are on the
18 stand.

19 I'll be sitting with him at the hearing. He
20 would not be able to work on pretrial testimony while
21 hearings are going on. The same is probably true for --

22 CHAIRMAN BECHOEFER: I didn't say while the
23 hearings were going on. It might give you an extra week
24 to file prepared. Instead of filing, like -- prepared
25 testimony then would be filed like next May 3rd could be

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1 the date for filing prepared testimony for both parties.

2 The staff, which would follow, could have
3 until, probably another five, another week, as long as
4 they made sure everybody got it. And they would have,
5 then, until May 10th for the staff. And that would not
6 necessarily be -- I mean, they could file Federal Express,
7 or whatever.

8 MS. CARROLL: That's a neat idea.

9 CHAIRMAN BECHOEFER: And that would give the
10 staff -- the staff, at least, some extra time. I realize
11 it would not give Georgia Tech any extra time, but.

12 MR. TURK: Your Honor, what you're proposing,
13 then, is that we file -- in Georgia Tech's case, three
14 weeks after we would stop depositions. In our case, four
15 weeks after.

16 CHAIRMAN BECHOEFER: I haven't extended the
17 discovery schedule yet. I was assuming that, based on
18 what's been said, if we added a week to discovery, until -
19 - right now, discovery is supposed to end on April 1.

20 MR. TURK: Right. And I have requested that
21 we be allowed to extend through the week of April 8th.
22 We'll just close it on the 12th.

23 CHAIRMAN BECHOEFER: Yes. Well, I don't --
24 well, we haven't granted that yet, and I'm not sure we
25 should.

1 MR. TURK: Well, we may need to address that
2 now.

3 MR. EVANS: I would join in that motion. I
4 mean, I think we have to be somewhat real on -- you know,
5 we, I can be available on the last week in March to depose
6 people.

7 But I don't know what the schedules of the
8 people we want to depose are, and I think we have to have
9 some flexibility, and I don't think that's very much.

10 MS. CARROLL: Well, I think if we have --

11 MR. EVANS: Say until the 12th.

12 MS. CARROLL: If we have agreed upon the goal,
13 we can be flexible on one deposition or something, but to,
14 you know, send the whole thing two weeks is blowing
15 everything. Judge Bechoefer, are you now looking at May -
16 - the week of May 13th, and the week of May 20th?

17 CHAIRMAN BECHOEFER: Hold on. We were off the
18 record for the moment.

19 MR. EVANS: I won't be here the week of May
20 13th. I -- Lord. At least the start of the week of May
21 13th, I'm going to be out of state.

22 MS. CARROLL: When would you be back?

23 MR. EVANS: I'll probably be back about the
24 15th, the 16th, the middle of that week.

25 MS. CARROLL: Well.

1 MR. EVANS: But that just seems to be an awful
2 short time. I'm assuming that, as far as what I submit,
3 as far as the testimony, would simply be the direct. And
4 that might be pretty short.

5 But the major testimony, obviously, with Karam
6 and folks like that, is going to have to be, not -- it's
7 going to have to be the rebuttal testimony, going down the
8 laundry list of everything GANE has -- the 81, or is it 82
9 factual assertions you've made. We're going to have to go
10 down those, one at a time.

11 I assume that's not covered by the written
12 testimony, because that's going to be -- come up during
13 rebuttal.

14 MS. CARROLL: Mr. Evans, you know, you're
15 pretty new to this, and Ms. Guilday's been in it, since
16 pretty much -- well, you know, she's been in the State
17 Attorney General's office. And you also have Nordin and
18 Wolibick, and them over there.

19 And, as you've got the rebuttal testimony, as
20 what you perceive as vital, I mean, is there any way your
21 crack team of lawyers over there could kind of cover for
22 you?

23 MR. EVANS: No, because rebuttal testimony is
24 just that.

25 MS. CARROLL: No, I was talking at the

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1 beginning, at the front end.

2 MR. EVANS: I'm lost.

3 MS. CARROLL: If we started on the 13th, and
4 you didn't get into town until the 15th or 16th, could
5 Nordin, Wolibick, and Gunnells --

6 MR. EVANS: No, because they are not --

7 MS. CARROLL: -- Guilday, all of them cover
8 the beginning end, and -- because you've got the rebuttal.
9 That's the last part of it.

10 MR. EVANS: No, because -- I was talking about
11 the written testimony. But, no, I mean, I'm the one --
12 I'm the only one handling the case. Gary Wolibick and
13 those there, they're kind of in-house counsel.

14 MS. CARROLL: Well, Pat Guilday is no slouch.
15 She knows a lot about it.

16 MR. EVANS: Well, she's no longer on the case.
17 She has other -- she's doing torts, mainly torts, I
18 believe. But no, she's out. I mean, originally --

19 MS. CARROLL: It seems like the State
20 Attorney General's office could do something. I mean,
21 you've barely been involved so far, so maybe -- I don't
22 know. I don't know.

23 MR. EVANS: Well, all I'm saying is,
24 originally, when we talked about --

25 MS. CARROLL: -- you're hard to work out. And

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1 I sure want to go see my father in the hospital, before --

2 MR. EVANS: Well, when we talked last time, we
3 were talking about the tail end of May, and early June,
4 and that was fine by me. It is still fine by me.

5 MS. CARROLL: Well, it never was fine by me,
6 so what are we going to do?

7 MR. EVANS: Well, I would go to the week of
8 early June, June 3rd, June 10th.

9 MS. CARROLL: I can't deal with it then.

10 MR. EVANS: Well, maybe you need to change
11 your plans.

12 MS. CARROLL: Maybe you need to change yours.

13 MR. EVANS: This isn't the only case I have.

14 MS. CARROLL: This isn't my only life, either.

15 MR. EVANS: Are we off the record?

16 CHAIRMAN BECHOEFER: You weren't off the
17 record, but we were off the record. We were listening.

18 COURT REPORTER: Actually, so was I. This is
19 the court reporter. Could I please get the spelling of
20 Guilday, Nordin, and Wolibick?

21 CHAIRMAN BECHOEFER: They have nothing to do
22 with the case, I mean, as far as --

23 MS. CARROLL: Guilday is G-U-I-L-D-A-Y. Can
24 you hear me?

25 COURT REPORTER: Yes, just continue.

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1 MS. CARROLL: Nordin, N-O-R-D-I-N. Gunnells
2 is G-U-N-N-E-L-L-S.

3 COURT REPORTER: G-U-N?

4 MS. CARROLL: N as in Nancy.

5 COURT REPORTER: Right. Go on.

6 MS. CARROLL: Was there another name?

7 COURT REPORTER: Gunnells, or Gun?

8 MS. CARROLL: Gunnells. G-U-N, as in Nancy,
9 N-E-L-L-S.

10 COURT REPORTER: Right. And then Wolibick?

11 MS. CARROLL: Wolibick. I believe it's W-A-L-
12 O --

13 MR. EVANS: I think it's W-O-L.

14 COURT REPORTER: W-O-L?

15 MR. EVANS: O-B-I-C-K.

16 COURT REPORTER: O-B-I-C-K. Okay, thank you.

17 MS. CARROLL: Maybe we should just hook up on
18 satellite conference.

19 CHAIRMAN BECHOEFER: If we did the first week,
20 as scheduled, and then arranged any of these weeks for a
21 second week, I think that would solve things.

22 MS. CARROLL: So, the 20th through the 24th is
23 the first week.

24 CHAIRMAN BECHOEFER: That was the first week,
25 and -- but all testimony may not be in by then, and,

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1 particularly, my guess is that the staff will not be
2 expected to appear as a witness during that week. I'm not
3 sure, but. We never know how long these other things
4 take.

5 MR. TURK: You know, or thing we may do
6 that's, that Glenn may find useful. And let me throw this
7 out. I have two ideas, actually.

8 One is, if we know whether Pamela Blockey-
9 O'Brien will testify or not, and will be filing pretrial
10 testimony, we know whether we have to take her deposition.

11 If we don't have to, that saves time, and it
12 will also cut back on the scope of what we have to address
13 in our testimony. That's one suggestion. If we could
14 find that out, that would help us in scheduling.

15 Secondly, perhaps, in terms of scheduling the
16 order of witnesses, if GANE wishes to go first, if the
17 Board finds that to be acceptable, perhaps GANE could put
18 on its testimony the week of May 20th.

19 And then the other parties resume when Ms.
20 Carroll is available, in the middle of June. And closing
21 hearings out in the middle of June, when the Applicant's
22 and staff's testimony is concluded.

23 MS. CARROLL: Let me ask you this. If GANE
24 went first, which would be irregular, would Georgia Tech
25 be able to sort of combine their testimony and their

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1 rebuttal?

2 MR. EVANS: Yes, we could.

3 MS. CARROLL: Well, that would tend to shorten
4 the hearing.

5 MR. EVANS: But, on the other hand, I don't
6 know -- we couldn't do that, if we're filing anything in
7 writing. I don't know -- obviously, the rebuttal
8 testimony is not something you can out it in writing, as
9 far as I know.

10 MS. CARROLL: That's right. But, if you
11 followed your accuser, which would be us.

12 MR. EVANS: Yes.

13 MS. CARROLL: And the staff is expected to
14 support you with every fiber of their being, as far as we
15 can tell.

16 MR. TURK: I don't expect that.

17 MS. CARROLL: Anyway, it seems like you would
18 not have anything to rebut. But --

19 MR. EVANS: Really to the contrary. It would
20 almost be pointless. I would say, if we're doing it that
21 way, we should probably be relieved of filing any written
22 testimony at all, because, basically, what we would be
23 doing in that case, you would be giving your reasons why
24 we shouldn't begin the license renewal, and our entire
25 case would be basically rebutting your case.

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1 So there, really, probably would be no reason
2 for us to put in any written testimony, unless you want
3 some formal testimony about who's doing and what their
4 people have, as far as their college degrees, so forth and
5 so on.

6 CHAIRMAN BECHOEFER: We clearly want pretrial
7 testimony as to who's, who the person is, and what his
8 background qualifications --

9 MR. EVANS: Of course.

10 CHAIRMAN BECHOEFER: In any event, we're going
11 to require that, because --

12 MR. EVANS: Well, even for the rebuttal folks,
13 we would want that.

14 CHAIRMAN BECHOEFER: Well, except, in some
15 cases, you see, I don't know whether some witnesses I can
16 think of we may or may not call, depending on what comes
17 in on Plaintiff's case. I can think of several instances,
18 where, depending on their case, we may or may not call
19 somebody.

20 MS. CARROLL: Well, this is all beyond me.
21 I'd like to go back to, you know, Herb extending his
22 desire, and Evans concurred, the April 1 deadline, which
23 hasn't been extended yet, but it's under discussion.

24 It's a religious holiday, Passover, and it's
25 also Good Friday. So it's a short week. But a lot will

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1 have been done, prior to that.

2 And I think GANE could agree with saying that
3 everything but Dr. Copcutt -- listen, I think you ought to
4 figure on paying. I'm going to do my best to get her to
5 tow the line in pretrial testimony, so let's figure she's
6 a witness.

7 And, if you wanted to put like Copcutt and
8 O'Brien in late. And certainly, in GANE's case, we kind
9 of know where O'Brien's coming from, so, you know, if that
10 came in late to us, that wouldn't affect us a lot anyway.
11 I don't think any of us has the kind of knowledge we're
12 supposed to have.

13 Anyway, couldn't we -- I just think we can do
14 the schedule better. Now, if you say, really honestly
15 tried to have most of it in by the 1st, and a couple of
16 them in by the 8th, or the 9th, then what's left? Then,
17 you've got to get your witnesses together, and get
18 pretrial testimony in --

19 MR. EVANS: Yes.

20 MS. CARROLL: -- two weeks before they
21 testify. And I think Bechoefer was raising some very
22 interesting points about really playing this close to the
23 edge of the envelope, where, literally, two weeks before
24 that witness takes the stand --

25 CHAIRMAN BECHOEFER: That's permissible.

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1 That's what the rule says, actually.

2 MS. CARROLL: So that works. That gives you a
3 lot of flexibility, if you could strategically figure out
4 your order of your witnesses, and make sure you knock them
5 off in that order.

6 You know, when you say you need five weeks for
7 that, and that's pressing it. Is that what you said, Mr.
8 Turk?

9 MR. TURK: For -- I'm sorry?

10 MS. CARROLL: Five weeks for preparing your
11 witnesses' testimony, would be what you needed, and you
12 regard that that would still be a tight schedule?

13 MR. TURK: That and somebody working the
14 hearing during that period, yes. I guess we --

15 MS. CARROLL: But, if you took that five
16 weeks, through May 10th, and if you think it would sound
17 right, if we could start the hearing, say on the 15th. I
18 don't know, because of Mr. Evans' restrictions.

19 And roll it around, do a weird two week
20 sequence, where we go the 15th to the, through May 29th.
21 And sorry all of you all have to hang out in Atlanta on
22 Memorial Day. Or, I would vote for my government, and
23 send people home, to be with their families for that
24 holiday.

25 MR. EVANS: The timing of this. There's not

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1 really enough time, unless people --

2 MR. TURK: Your Honor, would you be interested
3 in adjusting the witnesses appearing so that GANE goes
4 first? And then break -- the other parties to bring in
5 their testimony, bring in their witnesses a few weeks
6 later? I think none of the other parties oppose the idea.

7 MR. EVANS: I have no problem with that.

8 MS. CARROLL: Now --

9 MR. TURK: You know, from the staff's point of
10 view, we would be following GANE anyway. So we would
11 still be following, except for they would be this hiatus,
12 when Ms. Carroll is not available to be present.

13 MR. EVANS: The main difference is our
14 witnesses would be going on once rather than twice.

15 MR. TURK: Which I think is preferable.

16 MR. EVANS: Because the normal order, if we go
17 first, all I would plan on doing is putting on a very
18 brief direct case as to why we think we're entitled to the
19 license renewal.

20 GANE comes on, GANE is going to put on -- I
21 think they had 82 listed factual assertions. My
22 contemplation would be that I will have someone going
23 right down those 87 factual assertions, one after the
24 other, hopefully shooting them all down.

25 And that, as I see it, that's rebuttal

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1 testimony. I wouldn't be preparing that anyway. I mean,
2 I would be preparing the witness.

3 MR. TURK: You could prepare that in writing,
4 and submit it.

5 MR. EVANS: Yes.

6 MR. TURK: Have the witness simply swear to it
7 when he gets up on the stand.

8 MS. CARROLL: You can do that all at the same
9 time. Get a secretary to do it.

10 MR. TURK: That may save a lot of time in
11 terms of how much actual hearing time we have, if we save
12 all the time needed to go through that orally.

13 MS. CARROLL: Good point, good point.

14 MR. EVANS: Of course, I would have to -- I
15 can't do anything in writing, until I hear what the
16 witness says on the stand orally. I can have them
17 prepared, but I have to know what comes in, before I know
18 what I'm going to ask on rebuttal.

19 MR. TURK: I agree with that. To a large
20 extent, you can frame the testimony, knowing what you
21 expect is going to come in, and then adjust it based on
22 what GANE produces. The only question, though, is how
23 much time do you need to adjust the written testimony?

24 MR. EVANS: I have not understood that I put
25 in written testimony on rebuttal cases. I thought that

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1 was only on the direct case.

2 MS. CARROLL: I don't understand that either.

3 CHAIRMAN BECHOEFER: Normally, it's only
4 written testimony on a direct case.

5 MR. EVANS: Yes, that's what I thought.

6 MS. CARROLL: -- go down --

7 CHAIRMAN BECHOEFER: The thing that has been
8 done for rebuttal testimony -- we certainly would want
9 some time in advance, I guess, a statement of the
10 qualifications of --

11 MR. EVANS: Of course. There's no question of
12 that.

13 CHAIRMAN BECHOEFER: -- talked before, or
14 haven't been distributed before.

15 MR. EVANS: Yes. We would -- yes, there's no
16 problem on the qualifications, and I could even probably
17 even do that on witnesses I don't know if I'll call. Like
18 Greg Kahn. I don't know if I'll call him or not, but I
19 could get you his qualifications, in case we call him. I
20 think that's doable.

21 MS. CARROLL: What I'm after is to get you all
22 to see that we could do this the week of May 13th and the
23 week of May 20th. It would be real tidy, you'd be home
24 for the holidays, we'd be done.

25 MR. EVANS: May 13th is just too early.

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1 MS. CARROLL: Well, it wouldn't be, if you all
2 weren't trying to extend these deadlines, and again, I
3 know I'm --

4 MR. EVANS: That would be too early.

5 CHAIRMAN BECHOEFER: Under the rules, that
6 would be too early, as long as we had prepared testimony
7 at all, because you're supposed to put 15 days in there.
8 Plus time to digest.

9 MS. CARROLL: But, if GANE goes first, and we
10 get our prepared testimony in early, if we move our
11 deadline up, for prepared testimony.

12 MR. EVANS: Okay, I don't -- but I can't be
13 working my witnesses and preparing them for oral
14 testimony, even, while you're presenting your case. I
15 mean, I need some time to do that.

16 MS. CARROLL: Well, we're giving you five
17 weeks. We're giving you from the week of April 9th, 15th,
18 22nd, 29th, then we're in May, and you've got your five
19 weeks. And that week of May 6th.

20 Well, I see your problem. Well, I tell you
21 what. I think I could get my client to work with me on
22 that last week of May, that Memorial Day's in, if you all
23 could be okay with Memorial Day being in the middle of it.

24 MR. EVANS: I can. That's okay with me.

25 MS. CARROLL: I mean, obviously we wouldn't

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1 have the hearing on Memorial Day.

2 MR. EVANS: Yes, well.

3 MS. CARROLL: It would be the starting week
4 for the -- I'll wheel and deal with my client. I think I
5 can make it up for her in June. And, if we could -- if we
6 thought we could wrap it in nine days.

7 I think you all ought to hustle, and let us do
8 it on the 13th. I think that's ridiculous that you all
9 are going to take five weeks to slam little bitty GANE,
10 with absolutely no resources.

11 MR. EVANS: Well, I think what you maybe don't
12 understand is I probably have a caseload of, I don't know,
13 I would say at least 15 very active cases.

14 MS. CARROLL: I m a volunteer. I don't want
15 to hear about it.

16 MR. EVANS: Well, the point is, I'm working --

17 MS. CARROLL: Then the State Attorney General
18 should have picked someone else, if you can't do this.

19 MR. EVANS: Well, I can't spend -- I work,
20 right now, nine to ten hours a day, and I'm not about to
21 do any more. I'm sorry.

22 MS. CARROLL: Well, how many hours do you
23 think I work? I earn my way, I'm a volunteer, and I have
24 to walk my dog.

25 MR. EVANS: All right. But this is not the

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1 only case I have. It is not the only hearing I've got
2 coming up, and it's not the only brief I've got coming up.
3 I mean, I can't devote -- you say five weeks. I can't --
4 I don't have five weeks.

5 MS. CARROLL: I don't see why you need five
6 weeks. We aren't even doing a single deposition and, you
7 know what, I think we're still going to win.

8 MR. EVANS: Well, my point is I don't have --
9 out of five weeks, I don't have five weeks to devote to
10 this case.

11 MS. CARROLL: Well, Turk mentioned it. I
12 don't see on what earth you'll do with five weeks, with
13 your witnesses right there at hand. But I'm no lawyer.

14 MR. TURK: Your Honor, where we started was
15 looking at how much time we needed for depositions. If we
16 can agree on a cut-off of deposition time, and look to see
17 where we are at that point, maybe that's the best way to
18 start.

19 And, again, I would note that, based on Mr.
20 Evans' schedule, and the difficulties of the week of April
21 1, I don't think we can conclude depositions, including
22 the deposition of Blockey-O'Brien, realistically, before
23 the 12th of April, the second week in April.

24 MS. CARROLL: Why don't you schedule her for
25 Monday the 22nd, and Thursday? Why don't you get her

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1 first?

2 MR. TURK: We'll have to talk to all
3 witnesses, and check on their availability.

4 MR. EVANS: Yes. We have to check on that, on
5 everybody, including ours.

6 MR. TURK: What I have asked for is an 11-day
7 extension of discovery.

8 MR. EVANS: I would support that motion, Al
9 Evans.

10 MS. CARROLL: And I would oppose it, Glenn
11 Carroll. Did anybody see Time magazine yet?

12 MR. EVANS: No.

13 MS. CARROLL: Hello?

14 CHAIRMAN BECHOEFER: We're back on the record.
15 Was -- off the record, one minute.

16 (Whereupon, the foregoing matter
17 went off the record at 5:10 p.m.,
18 and went back on the record at 5:16
19 p.m.)

20 CHAIRMAN BECHOEFER: We had heard a lot of
21 this, not all of it maybe.

22 MR. TURK: I had made one point which I'm not
23 sure was picked up on the transcript, Your Honor. And
24 that is that I asked for an extension only until April
25 5th, a four-day extension of discovery.

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1 Except, during today's conversation, Mr. Evans
2 is unavailable for depositions during the week of March
3 18th, which I had assumed was a week we would block out
4 for some depositions.

5 And, also, he's unavailable March 25th. So,
6 essentially, we would have to start depositions March
7 26th, and make sure the witnesses are available to be
8 deposed during that week and part of the following week.

9 MS. CARROLL: I ask again, why you --

10 MR. TURK: May I finish please? And, for that
11 reason, I thought that it would be likely that we would
12 not be able to finish depositions, until some time during
13 the week of April 8th.

14 And, for that reason, I had asked for April
15 12th as the cut-off date. And that's due to the
16 unavailability of counsel, and the need to schedule with
17 witnesses, and that's the only reason for that extension.

18 I also had made the observation that we were
19 putting so many things into the record that are
20 unnecessary, that we're stretching it out, way beyond what
21 should be in the record.

22 MS. CARROLL: Why are you waiting so late in
23 the March to get started, I forget?

24 MR. EVANS: Well, I can tell you. On -- next
25 week, I am out of town. The week of the 11th and 18th, I

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1 have a major 11th Circuit brief due. It's going to take
2 about two full weeks, ten hours a day, probably counting
3 the weekends.

4 And that is due, that has to be filed --
5 currently, has to be filed the 18th, and I'm, I believe,
6 with the consent of the other side, they will extend it to
7 the 25th.

8 MS. CARROLL: I ask, again, why Turk and Evans
9 have to do this together?

10 MR. EVANS: Well, because we're both
11 representing, in essence, different interests. I mean,
12 I'm representing Georgia Tech, or really, the State of
13 Georgia. But, in this instance, Georgia Tech. I think
14 I'm representing the public, too, at least of Georgia.

15 And Mr. Turk is representing the NRC, the
16 staff, and our interests are not necessarily the same at
17 all.

18 MS. CARROLL: Well, I agree. So I don't see
19 why you have to do your depositions together. And I'll
20 add, I don't see why GANE's and the public's problem, that
21 the State Attorney General assigned an overworked attorney
22 to this case.

23 MR. EVANS: Well, we have a great many people
24 who are overworked, and that's the way it is. I mean, we
25 don't have -- most everyone here is handling multiple

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1 cases.

2 I probably have a caseload of about 30 cases.
3 At any one given time, you've got about ten of them that
4 are pretty active.

5 CHAIRMAN BECHOEFER: I think some of these
6 considerations are not really very relevant. Why does --
7 for instance, why couldn't Dr. Copcutt be deposed on two
8 different days, by two different parties? We could grant
9 limited extensions for that purpose.

10 I don't know why the whole hearing schedule
11 has to be based on the convenience of certain lawyers who
12 want to do things at certain times, when, particularly,
13 the Applicant and staff have multiple people they can rely
14 on, if necessary.

15 To me, they don't have to schedule their
16 depositions the same day. And, in any event, it will be a
17 lot -- it would be much more time-consuming, if we're both
18 taking the same deposition of the same person, on
19 different days.

20 What I was thinking was, probably, if we're,
21 it should be taking one deposition, where we work
22 together. That will avoid redundancy --

23 MS. CARROLL: But your logic is awful.

24 CHAIRMAN BECHOEFER: -- ask the same
25 questions.

1 MS. CARROLL: You're going to cut out the
2 students.

3 CHAIRMAN BECHOEFER: Read the transcript.

4 MR. TURK: The students do not have to be cut
5 out of the process. We can address the hearing schedule,
6 in a way that will accommodate them, at least for a few
7 days of hearings, perhaps, in the manner I suggested.

8 But I've always seen that, when depositions
9 are taken, the parties -- in this case, all three parties,
10 will try to work out a schedule that is convenient to the
11 witnesses, and to the representatives and lawyers.

12 So that you don't have duplication, you don't
13 force a witness to come out more than one time for
14 depositions. You don't go to the expense of having a
15 court reporter on more than one occasion.

16 MR. EVANS: Twice

17 MR. TURK: You don't have to get transcripts
18 for separate depositions, and then have to read
19 transcripts that you were not present and attending, so
20 you can then determine what it is that you need to examine
21 in your own deposition.

22 CHAIRMAN BECHOEFER: I'm not denying that it's
23 more efficient.

24 MR. TURK: There's no benefit to scheduling it
25 separately, except for Ms. Carroll's need to try to

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1 accommodate the public, which is not the proper thing to
2 be considering in scheduling anyway. It should be the
3 availability of the witnesses --

4 MS. CARROLL: Oh my God.

5 MR. TURK: -- the convenience of the parties,
6 and the availability of the Board and of hearing rooms.
7 We're not here to put on a public show. If the public is
8 able to attend, and they are able to attend, and they want
9 to attend, fine. If we can accommodate them fine.

10 But the primary focus, in any scheduling,
11 should be the parties' needs and the representatives'
12 needs. And that's what we've been talking about.

13 And, if Ms. GANE -- Carroll was lawyer, she
14 would understand that, and we wouldn't have to go back to
15 square one, and explain to her how litigation is
16 conducted.

17 MS. CARROLL: I absolutely, categorically
18 disagree with you.

19 MR. TURK: And it's 5:25, and I really would
20 like to work things out.

21 MS. CARROLL: -- and would serve the public.
22 I mean, it's -- within a body load of constraints, I can
23 perceive that. I'm clearly, the only one of the three
24 arguing parties arguing for that.

25 CHAIRMAN BECHOEFER: If we scheduled, for

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1 hearing, the week of the 20th to 24th, and then scheduled
2 one of the following week for any Board hearings that may
3 be needed, either the week of June 3rd or June 10th, if
4 possible, or even June 17th.

5 I have real questions about getting hotel
6 space in Atlanta, during a week as late as the 17th.
7 That's 30 days or so before Olympics start, and I think
8 people start coming in town.

9 MR. TURK: I know about you, but I didn't
10 think it was --

11 CHAIRMAN BECHOEFER: No, I just don't know off
12 hand.

13 MR. TURK: I know that, personally, Your
14 Honor, Mr. Mendonca and I, and Ms. Woodhead have been able
15 to book rooms all the way through June 21st. We have not
16 tried for later dates. But we've been able to get rooms
17 all the way through then.

18 CHAIRMAN BECHOEFER: I see. So, if we --

19 MR. TURK: If we try now, we probably can book
20 it.

21 CHAIRMAN BECHOEFER: I see. So, if you set -
22 if we set the week of May 20th, and then we went to the
23 week of June 17th, for carryover, we could do that. And,
24 if we provided that the testimony, then, would be filed --
25 well, let's see.

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1 Filed, probably Friday, the 3rd of May. But,
2 to the extent that Georgia Tech or GANE need only file --
3 are only going to file, essentially, qualifications,
4 identification of witnesses, that type of thing.

5 That would probably be sufficient, given what
6 Mr. Evans said about what direct testimony of Georgia Tech
7 would be, in any event.

8 MR. EVANS: I hope I'm not -- I mean, I'm
9 assuming I'm correct on procedure, that you do not do it
10 on rebuttal testimony, but mainly for the direct.

11 CHAIRMAN BECHOEFER: That's correct.

12 MR. EVANS: And, in a case like this, I would
13 -- I mean, I want all the cards on the table. I would
14 assume that the direct is very brief, and just basically
15 trying to show, prima facie, why Georgia Tech thinks that
16 they're entitled to renewal.

17 And then, after GANE goes, and after GANE's
18 turn, and they point out all the things we've done that
19 are wicked, then we come back and show that they weren't
20 wicked. And that part is not in writing before, because
21 we don't know the nature of the wickedness, until they say
22 it in court.

23 MR. TURK: I'm going to make a proposal that
24 Georgia Tech probably will not like, and that is file
25 testimony the way the staff files testimony. We will

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1 anticipate the issues that will be raised by the
2 Intervenor's testimony, we will prepare testimony to meet
3 it.

4 After that testimony is proffered and comes
5 in, we can then excise from our testimony portions that
6 are irrelevant, or do not meet anything that was out into
7 the record, and we can add to it things that are
8 necessary. The staff, from the get-go, essentially will
9 be preparing pretrial, written, rebuttal testimony.

10 MR. EVANS: Well, the reason I don't want to
11 do that is because A, that takes an awful lot longer time.

12 CHAIRMAN BECHOEFER: Yes, I think that would
13 be --

14 MR. EVANS: That would be very time-consuming.
15 I couldn't make that by May 3rd, I don't think. I can do
16 the direct, and -- the brief direct, and I can do the
17 qualifications. I have no problem with that on the 3rd.

18 MR. TURK: That's -- you would then be able to
19 take a few extra weeks to file that. You wouldn't file
20 that until probably June 3rd, after GANE's witnesses are
21 off the stand.

22 If this schedule that I'm suggesting works,
23 GANE would file May 6th, we go to hearing on GANE's
24 testimony May 20th, staff/Applicant testimony gets filed
25 on June 3rd, and we go to hearing on that June 17th.

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1 MR. EVANS: Well, that might be workable.

2 MS. CARROLL: That's interesting. However,
3 something's occurred to me, and it's protector of rights.

4 And I think it's in Georgia Tech's best
5 interest, and I think you also want the audience to
6 presume why you should have a license. And, if they
7 anticipate that, maybe being contained in a day, and I
8 don't know.

9 I have no clue we're going to want Copcutt on
10 the stand, etcetera. I would think a half a day would be
11 wearying for a witness, and I don't know. Anyway, if GANE
12 followed you, the rest of that --

13 CHAIRMAN BECHOEFER: There are many witnesses
14 who are on for a lot longer than a half a day, but.

15 MS. CARROLL: Well, is two weeks realistic?
16 It sounds like Georgia Tech and the NRC are going to bring
17 in a couple of dozen apiece.

18 MR. EVANS: I don't think we have that many,
19 but --

20 MS. CARROLL: Can you guess how many you've
21 got?

22 MR. EVANS: I think a two week hearing for a
23 situation like this, just based on general experience, I
24 think is probably about normal, average. What do you
25 anticipate?

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1 MS. CARROLL: It was that.

2 MR. EVANS: I would think that -- I would
3 think this could be handled in about --

4 CHAIRMAN BECHOEFER: We're estimating it about
5 two weeks, and maybe even less.

6 MR. EVANS: Maybe less. Maybe a few days
7 less.

8 MS. CARROLL: I'm just feeling the students
9 are sort of entitled to hear Georgia Tech's --

10 CHAIRMAN BECHOEFER: If we held it on the
11 20th, they would have an opportunity to come in, and they
12 would be read -- it will be in the public record, the
13 direct testimony. But I think Mr. Evans is correct. A
14 lot of Georgia Tech's testimony will be in the nature of
15 rebuttal.

16 MR. EVANS: Probably 70, 80 percent of that.

17 CHAIRMAN BECHOEFER: Yes, I can see that. And
18 that --

19 MS. CARROLL: I think Georgia Tech -- okay,
20 let me ask you this. This five weeks that Turk's
21 experience tells him he needs. Okay, I'm sorry. That's
22 not what I meant to say. You don't have to strike it, I
23 just got confused.

24 Turk said that Bechoefer or, you know, the
25 Board can mess with the time schedules, if they like.

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1 Now, if the parties agreed that, if we -- if the pretrial
2 testimony were in by the third, and we started the hearing
3 on the 13th, that the parties agreed that --

4 MR. EVANS: It wasn't the 13th, it was the
5 following week, as I understand it. Not the 13th.

6 MS. CARROLL: Well, no, I'm the one talking
7 about the 13th. Nobody else is. The 13th is a good time.
8 And, if the parties agreed to shorten the time between the
9 pretrial testimony and the beginning of the hearing, would
10 that be a possibility?

11 CHAIRMAN BECHOEFER: Well, we'd -- the staff
12 wouldn't have to file, then. First Evans, general
13 statements.

14 MS. CARROLL: Oh, you weren't suggesting the
15 staff file by the third. Even so --

16 CHAIRMAN BECHOEFER: We were suggesting that
17 the staff file sometime later, approximately 15 days prior
18 to when their witnesses would go on.

19 MS. CARROLL: Like, if they filed on the
20 tenth, and we agreed --

21 MR. TURK: The tenth of what?

22 MS. CARROLL: May.

23 MR. TURK: May. You're not listening to what
24 I've been saying.

25 MS. CARROLL: I mean, I don't see why you need

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1 that long. I'm just figuring, if you needed --

2 MR. TURK: The staff would have longer than
3 that, because -- you know, all of this came about because
4 it's only last week that GANE finally filed their
5 discovery responses. They've had seven months' extension
6 of discovery.

7 CHAIRMAN BECHOEFER: Stop complaining about
8 that. We've heard it about that.

9 MS. CARROLL: -- Rebecca Long --

10 MR. TURK: No. I'm asking for an adjustment,
11 to meet people's scheduling needs, on the order of one to
12 two weeks, and I feel all this compression taking place,
13 without concept of why we're here, in the first place, at
14 this late date. I don't think what I'm asking for is
15 unreasonable at all.

16 MS. CARROLL: Well, maybe I could bring out my
17 arsenal on all the screw-ups in this process. And I am
18 aware that GANE has been accommodated, and I'm not going
19 to draw a hard line here.

20 So, sorry, I can tell I pushed some buttons
21 with you, but I see some ideal qualities to the 13th and
22 the 20th, the week of the 13th and the 20th, and I was
23 just asking if we could work this out. I'm sorry that you
24 thought I was trying to impose something on you.

25 : Well, the 13th doesn't give

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1 people enough time to do anything. The 20th is absolutely
2 the earliest.

3 CHAIRMAN BECHOEFER: I don't think the week of
4 the 13th gives people very much time to -- we could
5 postpone the filing dates, if people agree to use express
6 mail, and that kind of thing. But we ought to get,
7 whenever it's going to be there, in time for us to look it
8 over, at least.

9 MS. CARROLL: Well, how about if I worked it
10 out with my client, for the week of the 27th. There is
11 Memorial Day in there.

12 CHAIRMAN BECHOEFER: Well, we --

13 MS. CARROLL: That would give us nine days.
14 Although, we could still use that Saturday for limited
15 public appearances. I loved that idea.

16 CHAIRMAN BECHOEFER: We were thinking of
17 starting the 29th. That wouldn't be enough time. The
18 week of the 20th would seem to reasonable there, still.

19 MS. CARROLL: Yes, that week seems to be good.
20 The second week becomes the question. And the thing I
21 don't like about June 17th, which is wonderful for me
22 personally is, you know, that the student body will
23 definitely have left.

24 CHAIRMAN BECHOEFER: Yes, but the student body
25 -- if we're there the 20th, they will have an adequate

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1 opportunity. They don't have to sit in on the whole
2 hearing. They probably won't.

3 MS. CARROLL: They probably wouldn't, but it
4 seems like --

5 CHAIRMAN BECHOEFER: We were scheduling the
6 week of the 20th, to try to get your desire in.

7 MS. CARROLL: Well, I appreciate that a lot.

8 CHAIRMAN BECHOEFER: And, if the first week of
9 the hearing were that, and the Applicants prepare
10 testimony, to the extent it describes why it should
11 receive a renewal, presumably would be prepared.

12 Well, the details wouldn't be, but I don't
13 expect that they would be anyway. They're in the nature
14 of rebuttal.

15 MS. CARROLL: Oh, so when the students come to
16 the hearing, they pick up Georgia Tech's pretrial
17 testimony, and they have read it for themselves?

18 CHAIRMAN BECHOEFER: Well, I assume Georgia
19 Tech will -- they're not required to bring a lot of extra
20 copies, but --

21 MS. CARROLL: But they can.

22 CHAIRMAN BECHOEFER: -- what is frequently
23 done is other parties, you can pile 100 copies on the back
24 of the room, and people can take it, if you want. I mean,
25 that's a matter of preference.

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1 There's only so many copies that are required,
2 and that means copies for all the parties, and a certain
3 number for the reporter, and all that kind of stuff.

4 I know the staff frequently brings in many
5 extra copies, and just invites people who are spectators
6 to take copies.

7 MS. CARROLL: Well, I guess I'm really trying
8 to keep the continuity going and, except for Memorial Day,
9 that next week is workable for me.

10 It's the study week for the students, and,
11 except for that Memorial Day, it seems like it would work.
12 And the government won't fly you home for a three day
13 weekend?

14 CHAIRMAN BECHOEFER: Well, not really.

15 MS. CARROLL: I mean, you'd probably have to
16 cut Monday short, and travel back, and pick up the hearing
17 on Tuesday, right?

18 CHAIRMAN BECHOEFER: Yes. That's why, when I
19 suggested another schedule, I had suggested starting
20 Wednesday and we could fly down on Tuesday, instead.

21 MS. CARROLL: I'm sorry I let us talk about it
22 so long before I realized I couldn't do that.

23 CHAIRMAN BECHOEFER: But --

24 MS. CARROLL: Well, I wish you all could see
25 the 13th, because it just seems like there's a way. I

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1 mean, there's been some creative suggestions made. I
2 mean, the staff has several pretrial testimonies to file,
3 in that five weeks. Certainly some of them are going to
4 be finished sooner than others.

5 MR. EVANS: Well, that's not necessarily so.
6 I don't know who's going to work on them.

7 MS. CARROLL: -- Evans was available.

8 MR. EVANS: I'm available on the 20th.

9 MS. CARROLL: And you think you've got other -
10 - oh, you don't have to be there to hear GANE's side of
11 it. Or you can have --

12 MR. EVANS: Yes, I think I do. But I will be
13 --

14 CHAIRMAN BECHOEFER: I will say that lawyers
15 should be around to hear what the opposition is saying.

16 MS. CARROLL: You're going to have to cross
17 examine them and stuff, aren't you? You're going to have
18 to cross examine GANE's witnesses.

19 MR. EVANS: That's correct. And I have no
20 problems with the week of the 20th of May, the 27th of
21 May, or any week in June. So, I mean, I'm not a
22 bottleneck exactly on here.

23 CHAIRMAN BECHOEFER: Sorry. You said you were
24 tied up the whole week of the 13th, or what?

25 MR. EVANS: No, I can --

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1 CHAIRMAN BECHOEFER: Of May, that is.

2 MR. EVANS: Yes, of May. The beginning of the
3 week. I should be back in Georgia around the 15th, 16th.

4 Although, to be perfectly candid, I would like
5 a few days to go over the file and everything, before
6 starting a hearing, which would get us to the 20th. I
7 have no problem with the 20th. The 20th, 27th, or any
8 time in June.

9 MS. CARROLL: Yes, that -- not Memorial Day,
10 that --

11 MR. EVANS: I'll work Memorial Day, if that's
12 what everyone wants. I don't care.

13 MS. CARROLL: We could do Saturday the first,
14 to kind of make up losing the day, if it didn't impact on
15 our Washington people so hard. Will the government fly
16 everybody's wives down? And I guess Colleen's coming
17 down, and she might have a family.

18 MR. EVANS: But, it seems to me, the week of
19 the 20th --

20 CHAIRMAN BECHOEFER: Well, to put this on the
21 record. We would be willing to schedule the week of the
22 20th, all five days, plus one additional week in June.

23 And I guess the earlier the better, but
24 whatever Ms. Carroll's obligations are. The week of the
25 17th to the 21st, we're told you can't get reservations.

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1 So we can schedule that on the second week.

2 MS. CARROLL: What, off the top of your head,
3 is going to be happening the week of June 17th? The staff
4 and Georgia Tech?

5 CHAIRMAN BECHOEFER: I would think mostly the
6 staff, plus Georgia Tech's rebuttal ,which would be most
7 of its testimony.

8 MS. CARROLL: And you all don't care if the
9 public hears you or not?

10 CHAIRMAN BECHOEFER: Well, there's a big
11 public, and a lot of them they will hear your witnesses,
12 the week of the 20th.

13 MS. CARROLL: Do you all like that, the 20th,
14 May 20th and June 17th?

15 MR. EVANS: Yes. That's suitable, as far as
16 I'm concerned, that's fine.

17 MS. CARROLL: Is Marvin's wedding date clear
18 of that? I'm kidding.

19 MR. TURK: We're waiting for the [Inaudible
20 word] to tell if those are the good dates, Glenn.

21 CHAIRMAN BECHOEFER: I was going to say the
22 week of the 20th was a good day. Which week of June did
23 people prefer? The 17th, or the tenth?

24 MS. CARROLL: The 17th. I guess that's not
25 really objectionable.

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1 MR. EVANS: I don't care. Any week in June is
2 fine.

3 CHAIRMAN BECHOEFER: Okay. Well, if we set --
4 let's set, definitely, the week of May 20th. And we don't
5 care if you want to work out prefiling schedules so that,
6 when information is -- the 15 days assumes filing by
7 direct mail.

8 If you file by express mail we don't care if
9 we get it a little later. We'll get it the same day.

10 MS. CARROLL: Now, when is the deadline for
11 pretrial testimony then? May third?

12 CHAIRMAN BECHOEFER: Well, let's see. If the
13 -- it would be May. Normally, it would be May third, but,
14 if we're served by express mail, it could be the the sixth
15 or seventh even.

16 MS. CARROLL: Okay. And then -- now, this is
17 for everybody or is this just for Georgia Tech and GANE?

18 CHAIRMAN BECHOEFER: It will be for Georgia
19 Tech and GANE.

20 MS. CARROLL: And when is the staff's
21 deadline?

22 CHAIRMAN BECHOEFER: Well, two weeks before
23 the 17th. Let's see. It would be -- wait a minute. May
24 31st. The staff's would then be May 31st.

25 MS. CARROLL: That ought to make you pretty

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1 happy.

2 MR. TURK: Your Honor, that's --

3 CHAIRMAN BECHOEFER: For prepared testimony.

4 I have a feeling the staff won't go on until the second
5 week.

6 MR. TURK: If the staff goes forward during
7 the week -- let's assume June 17th we go forward. We
8 would go then or Georgia Tech would put on a rebuttal case
9 at that point.

10 But, if we did that, then, under the rules, we
11 would normally be filing it on May 31st. I assume we
12 could do it by express mail on the third or fourth?

13 CHAIRMAN BECHOEFER: That's correct. That's
14 correct.

15 MR. TURK: Okay. That would be helpful,
16 because, the prior week, we only have four days after
17 Memorial Day, and it will also be the week right after
18 GANE's testimony is on, so we'll need that extra couple of
19 days to finalize testimony.

20 MS. CARROLL: Wouldn't that be kind of
21 unusual, that one party's pretrial testimony would
22 actually follow the presentation of the case, the actual
23 hearing of the other's?

24 CHAIRMAN BECHOEFER: It may or may not be
25 unusual, but it's consistent with the way the rule reads.

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1 MS. CARROLL: Yes, but what I'm thinking is I
2 think everybody should have their testimony in first, and
3 then let the process even out. I mean, certainly that
4 intervening month gives everybody time to think.

5 CHAIRMAN BECHOEFER: We can't hold the hearing
6 that early, then If you want to start on the 20th, we're
7 going to have to set a schedule like this. And to use the
8 weekend.

9 MS. CARROLL: Well, not necessarily. I mean,
10 this is if we grant Sherwin Turk's, you know, his deadline
11 extension. But it seems to me like he still should have
12 to prefile before the hearing begins.

13 CHAIRMAN BECHOEFER: Well, that's not
14 necessarily --

15 MS. CARROLL: I'm not sure that I -- I have no
16 clues about strategy on this, but it just surprises me
17 that now he needs more time, because he's got to respond
18 to what we do at the hearing.

19 And yet, if we went three consecutive weeks,
20 that would not be the condition he'd be operating under.
21 I think that's a little weird that he gets extra time to
22 take the citizens' group testimony.

23 MR. TURK: Part of the reason we need the
24 extra time for filing is because we won't have the
25 opportunity to complete preparation of testimony, at the

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1 time we're meeting this early going to hearing date of May
2 20th.

3 So the extra time is just the time we would
4 normally have needed anyway, to prepare testimony,
5 regardless of the fact that you're taking the stand first.

6 MS. CARROLL: One, two, three, four, five,
7 six. Six weeks. You wanted five, you're going to have
8 six. I mean, all you've got to do is get it in before the
9 hearing starts.

10 CHAIRMAN BECHOEFER: They -- if they have to --
11 -

12 MS. CARROLL: I mean, if you're telling the
13 truth --

14 CHAIRMAN BECHOEFER: They'll only have three
15 days after the hearings, of the first week's hearing, to
16 file it. And they'll have a couple more days if they go
17 by express.

18 MS. CARROLL: Yes, but what possible -- if
19 they're going to tell the truth, what possible difference
20 could it make what we say? I mean, I don't think this is
21 fair.

22 MR. TURK: I'm willing to file the same time
23 as Ms. Carroll, as long as we don't start the hearing May
24 20th.

25 I mean, if she wants us -- as long as we have

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1 enough time to prepare testimony. If she wants to start
2 hearings June 17th, fine. We'll file testimony 15 days
3 before that, the same time as her.

4 CHAIRMAN BECHOEFER: But she didn't want that,
5 because of the --

6 MR. TURK: I'm not looking for a filing
7 advantage. I just want enough time to prepare testimony,
8 and have my witnesses ready.

9 And, if GANE's concern is the public be able
10 to attend during May, as soon as exams begin, is a primary
11 consideration now, then my request was fine, delay other
12 parties than GANE.

13 CHAIRMAN BECHOEFER: I think, given the
14 various constraints and the fact that I don't think that
15 we ought to be around Atlanta in Olympic time, and the
16 week of the 24th of June is getting a little late. I'm
17 not saying you couldn't get reservations, but my guess is
18 it would be very difficult.

19 MS. CARROLL: No. If you're suggesting we do
20 two consecutive weeks that late, I would still rather
21 split it up. I'm just questioning whether the staff could
22 file on the Friday the 17th, just so there's more of a
23 blind thing going on.

24 I mean, I just think that it's weird that
25 they're waiting to hear -- that they'll file after they

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1 hear us. And I hear what Turk's saying, he can't work
2 that week of the 20th, while he's at the hearing, but I
3 don't see why he needs that week.

4 CHAIRMAN BECHOEFER: Well --

5 MS. CARROLL: Wrap it up on the 17th.

6 CHAIRMAN BECHOEFER: I think, based on what
7 their testimony is likely to have to be, that's reasonable
8 to have them file after your witnesses, or at least the
9 first bunch of your witnesses. We don't know how many
10 we'll get to.

11 It's reasonable to have -- well, I don't know
12 whether we would require the Applicant to put in its basic
13 outline case, like, on Monday the 20th. Even that could
14 happen. But we would want to accommodate the schedule of
15 the week of the 20th to the 24th to accommodate GANE's
16 witnesses to the extent possible.

17 MS. CARROLL: Yes, but I mean, nobody is
18 telling me that, if the staff has to file all their
19 pretrial testimony by Friday, May 17th, that that's too
20 short of a time period for them to do it in. I mean,
21 that's six weeks since the end of discovery. I don't --
22 that doesn't seem to make any sense

23 MR. TURK: The problem is trying to do a lot
24 of things at the same time. If we are going to hearing on
25 May 20th, and we will have your pretrial testimony in hand

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1 for approximately two weeks before that, a good portion of
2 our time is going to have to be spent preparing to cross
3 examine. We can't, at the same time, be preparing the
4 direct testimony, and getting that in final shape.

5 And I don't see that you have any reason to be
6 concerned anyway, because you should expect the staff's
7 case will be based upon the inspection history, which the
8 staff has observed at the reactor.

9 You've seen the inspection reports, you know
10 what the staff's positions are, with respect to all of the
11 detailed items that you raised as concerns, and you should
12 expect that our testimony will summarize the inspection
13 history, to a large extent.

14 I mean, that's the direct case that you're
15 going to be putting on, and that's the case that we intend
16 to meet. The problem is getting it all done at the same
17 time.

18 CHAIRMAN BECHOEFER: Now, I think that that
19 will have to -- setting it for May 31st or express mail
20 by, I guess, it would be June 4th, would mean that GANE
21 will receive it that week, and will have a couple of
22 weeks, over a week to prepare. And I think that's -- that
23 is sufficient, at least under the rules.

24 And while the other would be more desirable,
25 we were trying to accommodate GANE's request to hold the

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1 hearing during that first week. And I think that, to
2 accommodate everything, that's the kind of schedule we'll
3 set. And --

4 MS. CARROLL: Okay. Well, you guys know the
5 rules a lot better than me, so if that's what's considered
6 fair by our forefathers, so be it.

7 CHAIRMAN BECHOEFER: We're doing our best to -
8 - you know, we don't have to accommodate the availability
9 of members of the public at all. We're trying to
10 accommodate your request for that earlier week, and the
11 May 20th week.

12 And I think we've done it. And, to that
13 extent, we're trying to fulfill your request. Now, before
14 we leave, that's the kind of date we will set, and I have
15 a couple --

16 MS. CARROLL: I know you have a couple of
17 questions you want to go over, but could you give me one
18 clue, just to wrap this up, when you think you would know
19 when you would be setting the limited public appearance
20 session?

21 CHAIRMAN BECHOEFER: Well, it --

22 MS. CARROLL: Not to set them now, but when
23 you think you might set them, so that I can, you know,
24 anticipate that?

25 CHAIRMAN BECHOEFER: If they would prefer one

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1 in the second week. It will be some time in the evening,
2 the week of the 20th. We could set an hour, during the
3 hearing day.

4 That's the usual time, right after the start
5 of the hearing. Like nine to ten o'clock in the morning.
6 That's done frequently.

7 It would be some evening that first week. It
8 will be -- we'll set it some evening during that first
9 week, two hours. Perhaps we can have another hour during
10 the hearing day. It's frequently, traditional to have the
11 first hour of the hearing consist of that.

12 MS. CARROLL: Well, then, I'd like on Monday,
13 the 20th, one hour.

14 CHAIRMAN BECHOEFER: Morning, nine o'clock,
15 nine to ten o'clock, or something like that.

16 MS. CARROLL: Do you want to set that now?
17 That would work for me.

18 CHAIRMAN BECHOEFER: Okay. We will agree that
19 we'll start -- normally, the parties, or many times, the
20 parties will make whatever opening statements they need to
21 make, and then they'll -- then, perhaps, an hour for
22 limited appearances.

23 MS. CARROLL: So more like ten to 11, you
24 think?

25 CHAIRMAN BECHOEFER: I think the best we can

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1 say is it will be that morning, because I think the --
2 usually, prior to limited appearance stage, the parties
3 will make their opening statements so that the people in
4 the audience will know what the parties are going to try
5 to prove.

6 MS. CARROLL: Yes.

7 CHAIRMAN BECHOEFER: How long that will take,
8 I don't know. We start -- like the initial day, we
9 usually start at nine-thirty. We may start at nine
10 o'clock other days. But, if we start at nine-thirty, it's
11 going to take at least a half an hour for the people to
12 introduce themselves, and for the parties to make opening
13 statements.

14 MS. CARROLL: I think that's good enough, to
15 just say --

16 CHAIRMAN BECHOEFER: Whether it will be ten or
17 ten-thirty, and then set an hour for limited appearances,
18 I don't know. But it's hard to say.

19 MS. CARROLL: Well, I'm wondering if, by the
20 start and set an hour, if you shouldn't just let it go to
21 lunch? Would that be --

22 CHAIRMAN BECHOEFER: No, we don't allow that
23 much time, because we, ourselves have a lot of work to do.

24 MS. CARROLL: Right.

25 CHAIRMAN BECHOEFER: And we are going to hold

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1 an evening session, which will be two hours, and whatever
2 day that involves, it makes long day. We start at nine
3 o'clock and run until ten o'clock at night. Tired.

4 MS. CARROLL: I was thinking like seven to
5 nine maybe?

6 CHAIRMAN BECHOEFER: Well --

7 MS. CARROLL: Like for supper, and then come
8 back and do some --

9 CHAIRMAN BECHOEFER: That's certainly
10 possible.

11 MS. CARROLL: We might have to move, if we do
12 it in the Federal Trade Commission building, for example.

13 CHAIRMAN BECHOEFER: Well, the Federal Trade
14 building isn't open in the evening, and --

15 MR. TURK: Your Honor, can I suggest that we
16 defer setting the evening until we see which witnesses are
17 going to be scheduled that week. We'll get the list of --

18 CHAIRMAN BECHOEFER: I don't even want to set
19 it at the moment, but.

20 MS. CARROLL: Well, can you --

21 CHAIRMAN BECHOEFER: We will allow one hour,
22 of the first morning.

23 MS. CARROLL: Do you think, at the beginning
24 of April you'll set them? GANE needs to notify, you know,
25 its members of such, of this opportunity. So that's what

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1 I'm trying to find out, is when it will be set.

2 CHAIRMAN BECHOEFER: Normally, we put it in
3 the Federal Register a little bit ahead of time but, at
4 least -- the trouble is that will be the first, we'll put
5 the first one in, and the later one we will try to see
6 what the schedule will be.

7 And I assume that the Applicant will make
8 available his prepared testimony, in the hearing room, so
9 that people who -- at least, to the extent of the general
10 information, and background, and all that. So that people
11 who are there can pick up extra copies.

12 There's no requirement but, as I said, the
13 staff usually does it, and I assume Mr. Turk, that the
14 staff would similarly bring perhaps extra copies of its
15 prepared testimony, at the first hearing session that
16 would follow their filing of that?

17 MR. TURK: We can do that, Your Honor.

18 CHAIRMAN BECHOEFER: So that other spectators
19 can take copies, if they need to. I don't know how many
20 you'll need, or -- but that has been done in many cases,
21 and, if there is a large audience, that helps.

22 MS. CARROLL: I'd like to say, before we leave
23 this topic. I don't know when you're going to set those
24 dates for public appearance, but I think it would be very
25 symbolically lovely if you offer at least an hour on that

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1 first day of that second week, since they're nearly a
2 month apart.

3 And, like I said, people travel and such. But
4 the public hearing is important. Plus they will have
5 heard a week of testimony by then, some people. Anyway, I
6 don't want to bog us down with discussion, I just want to
7 air that idea.

8 CHAIRMAN BECHOEFER: Anyway, we'll perhaps
9 even call people to consult them about setting the second
10 date. But we want to see about availability of various
11 rooms for that kind of thing.

12 If we held a session during the opening
13 morning, that would likely be in the same hearing room we
14 use. But, in the evening, we'll have to see what's
15 available, when it's available and all that kind of stuff.

16 I have a couple of other questions that we --
17 that I had. The -- there's a letter, in the record, I
18 guess, in the material that GANE supplied us, from a
19 Robert N. McDonald. My question is who is he? I don't
20 see any reference to what that means.

21 MS. CARROLL: I'm sorry. That was kind of
22 extraneous. I thought it was interesting to get out of
23 there, but I didn't interview him, and I just threw that
24 in as an extra piece of paper for you to ask a question
25 about.

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1 CHAIRMAN BECHOEFER: Who is he?

2 MS. CARROLL: He was a -- I'm not positive. I
3 don't think he was a radiation safety officer. I think he
4 was a reactor operator.

5 MR. EVANS: I could be wrong. The name rings
6 a bell. It's possible he was an Assistant Director.

7 MS. CARROLL: He might have been, he might
8 have been.

9 CHAIRMAN BECHOEFER: Be that as it may, I'm
10 just -- there was a piece of paper in there with his name
11 on it, and I said now what does this have to do with, and
12 who is he?

13 MS. CARROLL: I was organizing everything, I
14 went through hell and high water, involved the entire
15 personnel department to make that copy off the microfiche,
16 and I just couldn't leave it out so.

17 CHAIRMAN BECHOEFER: Okay. Well, that's all I
18 wanted --

19 MS. CARROLL: I didn't want to use it for
20 anything. I just wanted you all to read it, because he
21 was obviously desperate to get out of there.

22 CHAIRMAN BECHOEFER: Well, it may lead to some
23 -- as you said, it might lead to some Board questions, but
24 I just didn't know who he was, or what the relationship
25 was.

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1 MS. CARROLL: I think I'm out of time to call
2 him up and interview him so I just kind of, you know, it
3 was one loose end that was dangling.

4 CHAIRMAN BECHOEFER: Now, I had another
5 question. You referred to a notice -- in your references,
6 you referred to a notice of violation, which you dated
7 December 24, 1988.

8 And I was looking through our local New Docs
9 file, and the only one I see is dated January -- December
10 29, 1988. And it sounds like the same thing, but.

11 MS. CARROLL: It sounds like I made a typo,
12 Judge.

13 CHAIRMAN BECHOEFER: I think that's possible,
14 because I --

15 MS. CARROLL: That's certainly possible,
16 because a lot of this stuff I took notes on, and I either
17 might not have read my handwriting --

18 CHAIRMAN BECHOEFER: Yes, because I saw that
19 reference, and I was wondering whether -- and you refer to
20 notice of violation. You did not refer to the inspection
21 report that underlies it.

22 MS. CARROLL: Yes.

23 CHAIRMAN BECHOEFER: But, on December 29th,
24 was report 8802, and that's in our New Docs file. I took
25 a look at it, so. But I wasn't sure that I was looking at

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1 the right thing that you referred to.

2 MS. CARROLL: Did the content of it seem to
3 jive with what I was referring to?

4 CHAIRMAN BECHOEFER: No, it has three --
5 there's three different violations. One of them seems to
6 track, more or less. One of the three.

7 MS. CARROLL: Is this in my -- I'm so tired,
8 you all, I'm hungry. I can hardly think.

9 CHAIRMAN BECHOEFER: Well, I was just
10 wondering.

11 MS. CARROLL: On my number 26, page 22, that
12 little list of everything we planned to rely on?

13 CHAIRMAN BECHOEFER: Hold the line a minute.
14 It's on about page, let's see, it's on page six, under the
15 date of 12/24/88.

16 MS. CARROLL: Is it on page 22?

17 CHAIRMAN BECHOEFER: It's on page six.

18 MS. CARROLL: Twenty-six?

19 CHAIRMAN BECHOEFER: Six.

20 MS. CARROLL: Six, six, six. My husband just
21 go home. He probably has no idea. Honey, I'm on the
22 phone with the NRC and everybody else.

23 CHAIRMAN BECHOEFER: On page six, under the
24 date of --

25 MS. CARROLL: NRC Site Violation, for

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1 calibration? Yes, that was definitely something I took a
2 note on. But, of course, none of the violations come out
3 on different dates.

4 CHAIRMAN BECHOEFER: They do. I looked in the
5 New Docs file, and I only found one on that date.

6 MS. CARROLL: And it was an inspection report
7 for 12/29.

8 CHAIRMAN BECHOEFER: But it's a violation date
9 of that, too.

10 MS. CARROLL: So they issued the violation the
11 same day? Or there were two different documents the same
12 date?

13 CHAIRMAN BECHOEFER: No, they -- the one dated
14 December 29th is entitled notice of violation, and then
15 the NRC inspection report 8802, at -- 8802 is a somewhat
16 earlier date. I just didn't know if that's the same
17 document. If that's a typographical error, that's all I
18 wanted to find out.

19 MS. CARROLL: Yes, I would rely on the notice
20 of violation reference more than the numerical reference.
21 I doubt I made an error on that whole --

22 CHAIRMAN BECHOEFER: No, there was a numerical
23 reference wasn't even in there, and I didn't see any
24 notice of violation dated the 24th.

25 MS. CARROLL: Right.

1 CHAIRMAN BECHOEFER: I saw the 29th.

2 MS. CARROLL: Okay.

3 CHAIRMAN BECHOEFER: That looks like a typo.

4 MS. CARROLL: And it's repeated in the list
5 where I refer to my chronology, to make my list of
6 documents to rely on, so that the mistake is repeated on
7 page 22. It's the next to the last line.

8 CHAIRMAN BECHOEFER: Okay. Well, all I was
9 trying to do was clarify that it might be a mistake.

10 MS. CARROLL: I appreciate it.

11 CHAIRMAN BECHOEFER: All right. I see that on
12 page 22 as well. If there's another one on the 24th,
13 please let me know. I didn't see it in the New Docs file.

14 MS. CARROLL: Yes, I put that in there twice.

15 MR. TURK: I assume it will be in testimony,
16 if it's important.

17 CHAIRMAN BECHOEFER: I don't know if it's
18 important or not. I was just trying to check through the
19 various things that were referenced.

20 MS. CARROLL: My brain shut down five minutes
21 ago, so I'm just -- I'll look into it. I sure can't
22 figure it out right this minute. I'll come to Washington
23 and use your public document room.

24 CHAIRMAN BECHOEFER: Anyway, that's the
25 questions we have. The other Board Members have to go,

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1 and --

2 MS. CARROLL: Well, my question is can I go
3 down to the NRC and look at all the Rebecca Long
4 documents, except for the classified ones? They look
5 interesting. I appreciate what you sent me, but it looks
6 like there's some other interesting stuff.

7 CHAIRMAN BECHOEFER: That was another
8 question. Why were the documents which were referenced as
9 -- gee, I don't have any idea at all. But there was one
10 that was an interview with Robert Boyd, and the other was
11 an interview with Karam. Why would not those be relevant
12 to this?

13 MS. CARROLL: I thought that whole list of the
14 Office of Investigation --

15 CHAIRMAN BECHOEFER: My question is to the
16 staff.

17 MS. CARROLL: Oh.

18 CHAIRMAN BECHOEFER: There amy be some others.
19 But, if they relate solely to the alleged discrimination,
20 that is not relevant to our case. That may be relevant to
21 other things.

22 But, if it relates at all to Georgia Tech --
23 and I'm just wondering why the files labelled Karam and
24 Boyd wouldn't be relevant to Georgia Tech?

25 MR. TURK: Your Honor, the position that we've

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1 taken is not that Boyd and Karam didn't say things that
2 may relate to Georgia Tech. Obviously, Karam was
3 interviewed about things that relate to his ability, as
4 would Mr. Boyd.

5 The relevance issue is twofold. Number one,
6 the accusation by GANE in this proceeding is that Georgia
7 Tech lacked adequate management.

8 What Boyd and Karam were interviewed about was
9 a 1987 inspection by Rebecca Long, which does not bear
10 upon management. It bears upon whatever violations might
11 have existed at the time, and how NRC later dispositioned
12 them.

13 Now, I don't know for a fact that Boyd and
14 Karam were asked about NRC dispositions. I don't know
15 what they were asked about, because I haven't read them.
16 I've merely listed the materials that Ms. Long collected.

17 But our position is number one, that just
18 because it was something covered in an inspection report
19 back in 1987, that does not make it relevant to the issue
20 of is Georgia Tech's management adequate.

21 The second objection we raised -- and let me
22 say this with respect to Boyd and Karam, as opposed to all
23 the sex discrimination allegations. Is that we've already
24 given to GANE the actual inspection findings written up by
25 GANE -- I'm sorry, written up by Ms. Long.

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1 We've given them whatever other documents seem
2 to be in that chain of events. So they have the primary
3 documents. All of the subsequent interviews by OIA, and
4 any reference to the same things again in the sex
5 discrimination lawsuit -- and they do get mentioned again
6 and again, is simply repetitive.

7 And, having given these documents over, it's
8 not really relevant and it's not necessary to a proper
9 decision in this proceeding.

10 CHAIRMAN BECHOEFER: The standard for
11 discovery, however, is not whether something may be
12 duplicative, or whether -- the standard is whether it can
13 lead to the, it doesn't even have to be admissible. It
14 has to lead to the discovery of admissible evidence.

15 And, to me, that's clearly within the proper
16 scope of discovery. And anything that relates to that --
17 not solely to the discrimination, but to the conduct of
18 management, even back in '87 and '88.

19 That was the starting point for this whole
20 contention, really. The management contention starts with
21 an event that occurred in '87.

22 MR. TURK: Actually, it was an event that
23 occurred about a year later, the cadmium spill towards the
24 end of '87, as opposed to this early 1987 inspection by
25 Ms. Long.

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1 There was no mention, in the contention, of
2 anything predating the cadmium spill. This was almost a
3 year earlier.

4 And, even if it relates to Georgia Tech, it
5 doesn't relate to the question of does Georgia Tech have
6 adequate management. It's essentially a question of how
7 did the staff disposition out the findings that were made
8 at that time.

9 We made available the findings, we made
10 availability the mark-up of Ms. Long's initial finding,
11 we've given that to GANE, and everything else is just
12 talking about the same issue.

13 It's not relevant, in the first place, in my
14 mind, because it does not tend make any fact more probable
15 or less probable as a consequence of the proceeding.

16 MS. CARROLL: What do you care if I waste my
17 time reading them?

18 CHAIRMAN BECHOEFER: I think it's covered just
19 generally, by permissible scope of discovery seems to be
20 covered by that.

21 MR. TURK: Where do you draw the line? If you
22 say that things that are solely relevant to sex
23 discrimination are not relevant, I definitely agree with
24 you that far.

25 But if, in the course of all the sex

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1 discrimination lawsuit, there's a reference to Georgia
2 Tech, does that mean I have to turn over the entire file
3 or first screen the entire file and hand over only certain
4 pages that relate to Georgia Tech?

5 MS. CARROLL: Why not?

6 CHAIRMAN BECHOEFER: I think that's exactly
7 what that means.

8 MR. TURK: I don't see why it has to be turned
9 over, if they already have the primary document anyway.

10 CHAIRMAN BECHOEFER: Because a lot of time the
11 primary documents don't reveal a lot of the underlying
12 bases, and we're trying to get below the surface.

13 MR. TURK: Well --

14 CHAIRMAN BECHOEFER: We're not trying to
15 challenge or even to raise a question about the staff's
16 disposition, but the underlying --- sometimes you just
17 can't tell how things developed unless you get the
18 underlying document.

19 I'm not sure that the -- I don't know what's
20 in this. We haven't received it, and I don't expect that
21 we will receive these.

22 MR. TURK: Let me summarize for a minute --

23 CHAIRMAN BECHOEFER: I think they're relevant
24 to her request, her discovery request, and therefore,
25 should be turned over. She should be allowed to see them.

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1 I'm not saying you have to make copies.

2 MS. CARROLL: I see a lot of them are very,
3 very lengthy. That's why I suggest that we meet at the
4 convenience of the Region 2 staff. They're already been
5 told to --

6 CHAIRMAN BECHOEFER: I was -- all of them. I
7 was thinking about ones that seem, on their face, to
8 relate to some of the people who were involved in the
9 case. There may be others who are or aren't. I can't
10 identify them so.

11 MR. TURK: Perhaps it would help if I
12 summarized what we have already handed over.

13 CHAIRMAN BECHOEFER: I thought -- I don't know
14 what's in the documents. We saw which documents you were
15 turning over.

16 MR. TURK: What we're turning over are the
17 essential facts, that GANE has sought. Ms. Long's
18 original inspection findings, in draft form. It has a
19 mark-up by whoever it was who reviewed them in management.

20 It has two summary statements written by Ms.
21 Long. One to her lawyer, and one to the NRC indicating
22 how she felt the NRC did not adequately disposition her
23 findings.

24 So all the information is there already. Ms.
25 Long, herself, apparently has to gain -- so that the

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1 person from whom GANE needs to find out information is
2 apparently already providing or willing to provide to GANE
3 --

4 MS. CARROLL: I turned her documents over to
5 Caroline Evans, who's holding them hostage.

6 MR. TURK: Nobody's holding them --

7 MS. CARROLL: -- by saying how did you like
8 the box of documents I put together for you.

9 MR. TURK: Well, she's wrong --

10 MS. CARROLL: I said oh, box of documents, and
11 that was the extent of our conversation.

12 MR. TURK: Well, she's wrong. They were not
13 put together for production to GANE. They were gathered
14 by Region 2, but without my knowledge --

15 MS. CARROLL: She wanted to know, she was
16 curious and was thinking oh, I have to ask for them back.
17 They're not going to give them back to me. I'm sorry -- I
18 lied. She didn't want them back.

19 She indicated she had -- you know, I'd said
20 you had your general objection to what's in the public
21 records. She goes "I've got a lot of stuff that's not in
22 the public records."

23 Now, if it's security, I'm not questioning
24 that. But, you know, you say, and I appreciate your
25 providing us free copies of what looks like meaningful

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1 documents.

2 But what on earth would you object to my
3 wasting my time reading through those other hundreds of
4 pages? There are already assembled in a box, in Mr.
5 Evans' office.

6 CHAIRMAN BECHOEFER: The Board, speaking now
7 as a quorum, Dr. Lam has had to leave. But Judge Kline is
8 here and we think those two documents, on their face,
9 should be turned over -- which ones are they?

10 MS. CARROLL: Boyd and I think you're talking
11 about OIG interviews?

12 CHAIRMAN BECHOEFER: I can't tell who some of
13 these people are.

14 MS. CARROLL: Cox is with Georgia Tech. She's
15 got to have, she is not talking about sex discrimination
16 suits. That is not what they're asking her about. She's
17 a secretary with Georgia Tech.

18 So I think all these Georgia Tech employees -
19 - David Cox was the reactor operator. I think all of
20 those are key.

21 We aren't interested in the sex discrimination
22 suit per se. Her salary is not our beef, but if she was
23 having her documents, her investigation reports were
24 biased by the NRC, that's very serious and we need to get
25 into that.

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1 MR. TURK: Your Honor, one other consideration
2 that I think you should think about, for a moment at
3 least, is whether or not there's a bar on disclosure.
4 These were documents that --

5 CHAIRMAN BECHOEFER: By the way, there is, can
6 be disclosure subject to a 2790 order if we have to. I
7 mean, normally you turn over these documents. You don't
8 just say that they're privileged.

9 If they're relevant -- maybe you should get
10 the order for privacy purposes, and I think that would
11 depend on Ms. Long rather than anybody else.

12 But, be that as it may, they may be protected
13 documents, but they -- if they're relevant, parties should
14 be able to take a look at them, subject to perhaps not
15 revealing any of the information elsewhere.

16 In a hearing, it might have to be done in
17 camera. There are a lot of ways to protect it. It's not
18 public information, but it seems to be relevant to the
19 discovery process.

20 And I can't tell you about all these other
21 people, because I have no idea what they're involved with
22 and whether some of these interviews with, like Mr. Ernst,
23 I would think that probably doesn't relate much to the
24 Georgia Tech case. At least, the Georgia Tech --

25 MS. CARROLL: Maybe he was the guy who revised

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1 her report.

2 CHAIRMAN BECHOEFER: That, in itself, is not
3 what we're looking at. What we're looking at is trying to
4 find out the various facts that she looked into it and
5 saw. And I would think --

6 MR. TURK: Those lead me to -- we've given out
7 the report, we've given out Rebecca Long's own summaries
8 of what her findings were. The basic facts are in their
9 hands already.

10 The question is do you then go out and produce
11 two boxes full of documents, in which the same things are
12 repeated again and again, and again. The also bear upon
13 the sex discrimination.

14 MS. CARROLL: I looked at those --

15 MR. TURK: Are you --

16 CHAIRMAN BECHOEFER: I think that discovery
17 anticipates she can look through the whole file. And, to
18 the extent they're privileged, some steps might have to be
19 taken so that she doesn't publicly reveal the information.

20 But proper scope of discovery is not whether
21 the stuff is duplicated. That's her decision. Basically,
22 I think the material at least related to Boyd and Karam --
23 and I don't know about the other Georgia Tech people, but
24 there are several. Most of them I don't recognize
25 offhand, but.

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1 MS. CARROLL: I looked over it while you all
2 were on break, and I -- there is a lot of it that I would
3 be interested to look into it.

4 It's hard to identify by these referral by
5 titles but, a typed note of telephone conversation. It's
6 just so much. I think that I should get to look at it all
7 of it.

8 It will keep me out of trouble., It will keep
9 me from getting to the real heart of the matter, Mr. Turk,
10 if I'm wasting my time over here. I get the feeling
11 you're trying to hide something, okay.

12 MR. TURK: If I was trying to hide something,
13 I wouldn't have made up such a detailed list, listing
14 every single document in the box so that you and the Board
15 --

16 MS. CARROLL: I don't see why you're trying to
17 protect me from wasting my time.

18 MR. TURK: I think you can protect yourself
19 very well.

20 CHAIRMAN BECHOEFER: Again, I don't know what
21 some of these interviews are about, but I would think
22 interviews with at least Boyd and Karam and perhaps some
23 of these others, but it's hard for me to tell.

24 MS. CARROLL: I think everybody's at Georgia
25 Tech on that list. I think it's what he said, Judge

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1 Bechoefer, I asked for everything pertaining to Rebecca
2 Long.

3 CHAIRMAN BECHOEFER: But everything pertaining
4 to her -- her reviews of Georgia Tech, everything related
5 to the alleged discrimination, that is relevant. But, for
6 instance, I have never heard of a John Michael Puck. I
7 don't know who he is, and --

8 MS. CARROLL: I have heard of him, but I can't
9 remember right now.

10 CHAIRMAN BECHOEFER: I don't know whether
11 anything --

12 MS. CARROLL: He might have been in the -- oh,
13 he was the radiation safety officer, right after -- in
14 fact, he overlapped with Boyd for a while.

15 CHAIRMAN BECHOEFER: Potentially relevant.

16 MR. TURK: But what I'm afraid is going to
17 happen, if we start opening the door to all this, Your
18 Honor, is that it's going to start coming into the
19 proceeding. I think it is all very tangential.

20 MR. EVANS: Whoever he is, he's not on the
21 witness list, and he can't testify anyway.

22 CHAIRMAN BECHOEFER: That's the point, Ms.
23 Long is on the witness list.

24 MR. EVANS: No, this Plunkett, or whoever.

25 CHAIRMAN BECHOEFER: He doesn't have to be on

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1 the witness list. She doesn't have to call him.

2 MR. EVANS: I just meant I assumed that he's
3 not going to be permitted to testify. Discovery -- I hope
4 we're going to end discovery, and then we go on what we
5 have. Otherwise, we're going to need more depositions.
6 I'm hearing new names is what concerns me.

7 MS. CARROLL: He's -- Mr. Evans, you want to
8 know hoe to be me, and I want to know what's going on over
9 at Georgia Tech.

10 CHAIRMAN BECHOEFER: We have a witness and
11 apparently the witness had some relationship with all
12 these other people. These other people aren't going to be
13 and aren't proposed to be called as witnesses.

14 MR. EVANS: I have no problem with Long. I
15 know about her.

16 CHAIRMAN BECHOEFER: Yes, but Long's report,
17 apparently, includes all these other documents, and Long
18 is the person we know, or we've been told is going to be a
19 witness.

20 MR. EVANS: Yes, that's fine. I have no
21 problems with that.

22 CHAIRMAN BECHOEFER: Yes.

23 MR. EVANS: I heard someone mention -- I
24 forget the name.

25 CHAIRMAN BECHOEFER: These are all files.

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1 MR. EVANS: I hear another name and I'm
2 thinking, my God, not another witness, because then we --

3 CHAIRMAN BECHOEFER: No, these are not
4 proposed witnesses.

5 MR. EVANS: Okay. I take back everything I
6 said.

7 CHAIRMAN BECHOEFER: These are people at
8 Georgia Tech that apparently Long interviewed.

9 MR. EVANS: Yes.

10 CHAIRMAN BECHOEFER: Whatever the reports say,
11 I think they could lead to evidence.

12 MS. CARROLL: I think these are interviews by
13 the Office of Investigations. I think.

14 MR. TURK: These -- we're looking at part one
15 of attachment A --

16 MS. CARROLL: Okay, I am --

17 MR. TURK: Excuse me. Pages one through three
18 of attachment A, OIA/OIG documents. The first three
19 pages of that pretty much consists of a closing memo,
20 sworn interviews conducted by OIA and, in one case, OIG.

21 MS. CARROLL: That's Office of Investigations?

22 MR. TURK: OIA is Inspector Auditor, OIG is
23 Inspector General.

24 MS. CARROLL: They probably followed Long's
25 allegations. These investigations were done in order to

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1 sort through what Long, the issues Long raised.

2 MR. TURK: They have to do with all the
3 various claims that were made by Ms. Long, at that time,
4 which involved Georgia Tech. I think she made some
5 allegations about --

6 MS. CARROLL: I'm not interested in those, by
7 the way.

8 MR. TURK: And all of her claims that she --
9 not that she was sexually harassed, but that she was
10 subjected to sex discrimination.

11 What we've done already, Your Honor, is we've
12 given the primary documents. We have Ms. Long's findings,
13 as they were written originally. We've got the mark up by
14 management.

15 We've got her written complaints about how
16 that was done. We've got her letter to her lawyer
17 summarizing why those things were handled improperly by
18 NRC.

19 How far do you open the door here? And I
20 think this is an important question for us to consider in
21 terms of where the hearing is going.

22 If we're going to get, on the stand, Ms. Long
23 telling everyone about how there are these terrible
24 inspection findings, and how NRC never dispositioned them
25 properly, now our testimony is going to have to meet that.

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1 And we're going to have to show that, in
2 fact, we did disposition properly, which we can do. But
3 how far do we want to open the door to all these other
4 people, and all these other interviews --

5 MS. CARROLL: That's not the issue.

6 MR. TURK: The important thing here is number
7 one, is Georgia Tech management worthy of their license
8 being renewed?

9 We have inspection findings from almost ten
10 years ago. The Office of Inspector General has closed it
11 out, and the closing memorandum, I did send it to GANE --

12 MS. CARROLL: Did you see Time magazine this
13 week?

14 MR. TURK: We're not going to look at Time
15 magazine in this case.

16 MS. CARROLL: I live in Atlanta. They're
17 going to see what's going on over there, and whether the
18 NRC is in collusion with them or not. And I live here and
19 you don't.

20 CHAIRMAN BECHOEFER: If your interpretation of
21 the discovery rules says you should turn that material
22 over, it doesn't mean it's all going to be acceptable.

23 It doesn't mean -- certainly, those people
24 aren't going to be witnesses. It's part of the reference,
25 and I think they should have been turned over, for

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1 whatever they're worth.

2 MS. CARROLL: How can we proceed from here?
3 I'm really tired. I've got to get to Chattanooga, my
4 Dad's going to be asleep.

5 CHAIRMAN BECHOEFER: We have to get going,
6 too.

7 MR. TURK: Stop -- may I clarify which
8 document it is you're talking about turning over. Is it
9 the OIA, OIG?

10 MS. CARROLL: Take out the classified
11 documents, and let me read through everything else.
12 That's what I suggest. Let me waste my time.

13 CHAIRMAN BECHOEFER: Anything with Karam,
14 Boyd, or any other Georgia Tech employee. Anything like
15 that should be turned over. The other stuff -- I don't
16 know, but we don't say it.

17 MS. CARROLL: I think the deposition of
18 Rebecca Long could have -- it may only be a couple of
19 references in that --

20 MR. TURK: You've got the witness, you've got
21 the documents.

22 MS. CARROLL: I'm sorry?

23 MR. TURK: You've got her documents. You've
24 got the witness.

25 CHAIRMAN BECHOEFER: I think the other

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1 material, the background material also should be turned
2 over. That doesn't mean that every item in there is going
3 to be gone over in the hearing. But if it's relevant it
4 should be, and let's let GANE decide whether the material
5 is relevant.

6 MR. TURK: When you say other background
7 material, how far are we reaching? You're talking about
8 all these investigative interviews.

9 CHAIRMAN BECHOEFER: We're talking about Boyd,
10 Karam, and other Georgia Tech employees, the files
11 relating to them.

12 MR. TURK: How far back in years?

13 CHAIRMAN BECHOEFER: They're on the list,
14 they're listed.

15 MS. CARROLL: They're all listed. There's
16 nothing older than '87.

17 MR. TURK: We can do that, Your Honor. There
18 may be privacy issues involved.

19 CHAIRMAN BECHOEFER: Okay. Well, we're
20 willing to impose an order. If you all can agree to some
21 sort of protective order on some of the privacy
22 information, we'll approve that. This isn't public
23 information.

24 MS. CARROLL: Judge Bechoefer, can I have the
25 Long deposition, from 11/88? I feel some resentment, but

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1 I have -- I get the impression from you. I don't resent
2 you, but I get the impression from you that you're
3 limiting it to those Georgia Tech interviews. I see other
4 things that I would like to see.

5 CHAIRMAN BECHOEFER: I think they interviewed
6 her when she alleged discrimination. I don't know whether
7 there's part of that that are relevant, I don't know.

8 But I don't think those other depositions --
9 if they have clear material related to Georgia Tech, I
10 think those should have come out in the other. I don't
11 think those depositions, those interviews, how Long got by
12 her inspection. That's more related to her discrimination
13 charges, I'm sure.

14 MR. TURK: I don't think -- I feel reasonably
15 sure that covers those issues.

16 MS. CARROLL: I pledge to you I will not -- I
17 will make very effort not to raise issues that are
18 irrelevant to this proceeding. I mean, it's pretty
19 tiring, but I'm willing to wade through a lot.

20 If there's a reference in her sex
21 discrimination suit to matters pertaining to Georgia Tech,
22 and they may or may not be apply to the management issue.
23 I realize that.

24 I don't want copies of them. Please don't
25 photocopy them for me. I would like to review them at

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1 your office.

2 MR. TURK: We'll arrange the -- you can do it
3 at the office in Atlanta.

4 CHAIRMAN BECHOEFER: Okay. That settle it.
5 That's what we think should be done.

6 MS. CARROLL: That's right. And I get to see
7 everything -- you'll work on the sensitive stuff, but
8 everything else, I can --

9 CHAIRMAN BECHOEFER: Well, it has to relate to
10 Georgia Tech.

11 MS. CARROLL: -- to bring it up.

12 MR. TURK: As I understand what we're going to
13 be turning over, it's the interviews of Georgia Tech
14 personnel, and of any NRC personnel that were conducted by
15 OIA, OIG, that touch upon the Georgia Tech reactor?

16 MS. CARROLL: Then I get into C, civil
17 litigation. I'd like the complaint --

18 MR. TURK: Let's --

19 CHAIRMAN BECHOEFER: I think that's correct.

20 MR. TURK: I understand I can turn over the
21 Long interview, but then what do I do with the other NRC
22 interviews that may cover Georgia Tech as well as other
23 issues?

24 MS. CARROLL: Give them to me.

25 CHAIRMAN BECHOEFER: If they cover Georgia

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1 Tech, they should. If they cover other issues, they can
2 excise the parts that deal with the other issues. I don't
3 care. It's only insofar as they relate to Georgia Tech.
4 I don't know that you can separate them out.

5 MS. CARROLL: It seems like a lot of staff
6 work to me. Just let me look at that box. Why would I
7 want to waste my time, if it didn't relate to Georgia
8 Tech? I mean, if you're going to leaf through the pages
9 before you decide they're relevant to me, why should you
10 have it do that work?

11 MR. TURK: Let me consider, Your Honor. It
12 may be that we just turn them over under protective order,
13 or maybe that we just --

14 CHAIRMAN BECHOEFER: We will approve a
15 protective order to make sure they don't get to be public
16 information, assuming it's not appropriate.

17 MS. CARROLL: Does this apply to everything or
18 just certain things?

19 CHAIRMAN BECHOEFER: To whatever there's a
20 claim of confidentiality of any sort.

21 MS. CARROLL: Okay. Right.

22 CHAIRMAN BECHOEFER: If they get involved in
23 the hearing, you might have hold an in camera session.

24 MS. CARROLL: Right, I understand.

25 CHAIRMAN BECHOEFER: I think that responds to

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1 our questions on that.

2 MS. CARROLL: The PR department at Region 3
3 tried to call me, is that because they were going to tell
4 me about fuels that got moved, anybody know?

5 CHAIRMAN BECHOEFER: I don't think we have to
6 bring that up right now. I think we're about finished
7 with the items we wanted to have covered. No objection,
8 after we get off, continue any conversation you may want
9 to have.

10 MS. CARROLL: Where's my barbecue sandwich?

11 CHAIRMAN BECHOEFER: We took that. We got
12 hungry.

13 MS. CARROLL: Well, you owe me one when this
14 is over. Well thanks, guys, that was a ball. I guess I'm
15 getting in shape for the hearing. A four and a half hour
16 phone conversation.

17 CHAIRMAN BECHOEFER: That's the way some of
18 the these things happen. I've got to get the show on the
19 road myself.

20 MS. CARROLL: Okay. Well, everybody be well,
21 and prosper.

22 MR. TURK: Your Honor, I will go through the
23 documents again, that are in that category one, OIA, OIG
24 documents, and I'll talk to Ms. Carroll tomorrow if
25 possible, Glenn?

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1 MS. CARROLL: I may be back tomorrow
2 afternoon.

3 MR. TURK: And we'll see how we can set up
4 turning over some things from that section.

5 MS. CARROLL: Okay.

6 CHAIRMAN BECHOEFER: Okay. We'll sign off
7 now.

8 (Whereupon, the foregoing prehearing
9 conference went off the record at
10 6:29 p.m.)
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C E R T I F I C A T E

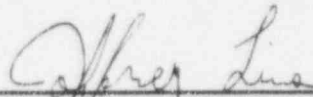
This is to certify that the attached proceedings before the United States Nuclear Regulatory Commission in the matter of:

Name of Proceeding: GEORGIA INSTITUTE OF TECHNOLOGY
RENEWAL OF LICENSE NO. R-97

Docket Number: 50-160-Ren

Place of Proceeding: ROCKVILLE, MARYLAND

were held as herein appears, and that this is the original transcript thereof for the file of the United States Nuclear Regulatory Commission taken by me and, thereafter reduced to typewriting by me or under the direction of the court reporting company, and that the transcript is a true and accurate record of the foregoing proceedings.



JEFFREY LINS
Official Reporter
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