



Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

In the Matter of:

COMMISSION MEETING

Affirmation/Discussion and Vote

(Public Meeting)

Location: Washington, D.C.

Date: Wednesday, December 18, 1985

Pages

Prepared by:

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D I S C L A I M E R

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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5 AFFIRMATION/DISCUSSION AND VOTE

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7 PUBLIC MEETING

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9 Nuclear Regulatory Commission
10 Room 1130
11 1717 "H" Street, N.W.
12 Washington, D.C.

13
14 Wednesday, December 18, 1985

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16 The Commission met in open session, pursuant to
17 notice at 3:30 o'clock p.m., NUNZIO J. PALLADINO, Chairman
18 of the Commission presiding.

19 COMMISSIONERS PRESENT:

20 NUNZIO J. PALLADINO, Chairman of the Commission
21 THOMAS M. ROBERTS, Member of the Commission
22 JAMES K. ASSELSTINE, Member of the Commission
23 FREDERICK M. BERNTHAL, Member of the Commission
24 LANDO W. ZECH, JR., Member of the Commission
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STAFF AND PRESENTERS SEATED AT COMMISSION TABLE:

A. BATES

T. ROTHSCHILD

1 CHAIRMAN PALLADINO: This is an affirmation
2 discussion session. We have one item still to cover today.
3 I'll ask the Secretary to lead us through the item.

4 MR. BATES: Mr. Chairman, before we do this
5 we do have to do this on a short notice vote because for the
6 same reason as this morning; the agenda did not get posted a
7 full week in advance. So I ask you to vote to do this on
8 short notice. The issue is the Arnold and Wallace SECY
9 paper 85-148A.

10 (All said Aye)

11 MR. BATES: The Commission is being asked to act
12 on an order responding to a March 28, 1985 request from Mr. Bob
13 Arnold and Mr. Edward Wallace for a hearing to determine whether
14 the adverse implications about their integrity drawn by the
15 staff and the OI in connection with the TMI-1 restart proceed .g
16 are factually substantiated.

17 Chairman Palladino and Commissioners Roberts and
18 Zech have approved an order with modifications by Chairman
19 Palladino and Commissioner Zech. The order asks interested
20 persons, particularly parties to the TMI-1 restart proceeding
21 and the NRC staff to submit comments addressing a number of
22 questions related to the December 5, 1979 response of
23 Metropolitan Edison Co. to NRC's October 25, 1979 Notice of
24 Violation. If, based on information provided, the Commission
25 determines that there is information which could form a

1 reasonable basis for concluding that either Wallace or Arnold
2 willfully, knowingly, or with a reckless disregard of the truth
3 made a material false statement to the NRC, it will consider
4 initiating an adjudicatory hearing to resolve whether to
5 retain the notification requirements in CLI-85-2. If the
6 determination is to the contrary, the Commission intends to
7 issue an order lifting the notification requirement imposed in
8 CLI-85-2. Commissioner Bernthal has agreed with the order in
9 regard to the Notice of Violation but disagrees with a portion
10 of the discussion in the order and has additional views.
11 Commissioner Asselstine also approved the overall approach of
12 the order but disagreed with specifics in the order and has
13 provided separate views.

14 COMMISSIONER BERNTHAL: I just wanted to make
15 the comment that the advice of our Counsel, Mr. Ed Fay, not
16 withstanding, I think that (laughter) it is an unusual period
17 and I think we would be seen as being unfair if we hit them
18 with a thirty day period beginning now. There are two back to
19 back holidays and I don't think anybody in this room is going
20 to do very much.

21 COMMISSIONER ZECH: I don't feel strongly about
22 it either way, frankly.

23 COMMISSIONER BERNTHAL: It's purely a question
24 of legal - is there - as no legal import and no question of
25 fairness at all then it doesn't matter but it amounts to

1 15 days and that strikes me as being pretty short. And, if
2 that's long enough, fine.

3 CHAIRMAN PALLADINO: Your proposal was to add
4 15 days to the period.

5 COMMISSIONER BERNTHAL: Since we're doing it
6 now I thought -- hitting them at this time with 30 days
7 means they've got two weeks in effect unless they're more
8 diligent than most of us are.

9 CHAIRMAN PALLADINO: Well, if the majority
10 would go with 45 days, I'd be willing to --

11 COMMISSIONER BERNTHAL: It doesn't - it's no
12 big deal it me, I just --

13 COMMISSIONER ZECH: It's not to me either.
14 I would ordinarily think we ought to stick to our thirty
15 days but again I don't feel that strongly about it. Personally,
16 30 days is fine with me but if Fred feels that 15 is worth
17 it that's enough for me.

18 COMMISSIONER BERNTHAL: It's a question of
19 fairness Lando. I --

20 COMMISSIONER ZECH: I'd support that view, I
21 really would. If you feel that way about it.

22 COMMISSIONER BERNTHAL: Is there a legal
23 question of fairness here?

24 MR. ROTHSCHILD: You can give them any time
25 you want, (blank) any reasonable time, I assume anything

1 less than 30 days someone could argue didn't give them
2 enough time --

3 COMMISSIONER BERNTHAL: Well, that's precisely
4 my point. No one could argue that they gave us 30 days and
5 everybody knew that this is a period -- I guess that's not
6 a valid legal argument.

7 MR. ROTHSCHILD: Really (blank) use 30 or 45
8 (blank).

9 COMMISSIONER ZECH: If Fred feels that way, I'm
10 willing to support him on it. I don't feel that strongly about
11 it but if he does, that's good enough for me.

12 COMMISSIONER BERNTHAL: People can always request
13 more time as well.

14 CHAIRMAN PALLADINO: Yes, that's what I was
15 thinking.

16 VOICE: Why don't you just pick a date certain.

17 VOICE: (blank) a date certain.

18 COMMISSIONER BERNTHAL: (blank) another 15
19 days pick a date certain and that's -- that'll be the time.

20 MR. BATES: The legal assistants had discussed
21 January 24th close of business - now that's approximately 30
22 days. The question might be --

23 COMMISSIONER BERNTHAL: That sounds fine.

24 MR. BATES: 15 beyond that --

25 CHAIRMAN PALLADINO: That sounds fine. That's

1 another week essentially.

2 COMMISSIONER ZECH: Why don't we do that.

3 VOICES: Fine, I'm willing, fine.

4 MR. BATES: January 24th. That gives them
5 3 weeks.

6 Would you affirm the votes?

7 (Chorus of ayes.)

8 CHAIRMAN PALLADINO: Is there anything more
9 to come before us?

10 The meeting will stand adjourned.

11 (Whereupon, the Commission meeting was
12 adjourned at 3:45 o'clock p.m., to reconvene at the
13 Call of the Chair.)

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