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# HUNTON & WILLIAMS

707 EAST MAIN STREET P.O. Box 1535

RICHMOND, VIRGINIA 23212

TELEPHONE 804-788-8200

TELEX 684425I

May 19, 1986

2000 PENNSYLVANIA AVENUE, N.W.  
P. O. BOX 19230  
WASHINGTON, D. C. 20036  
TELEPHONE 202-955-1500

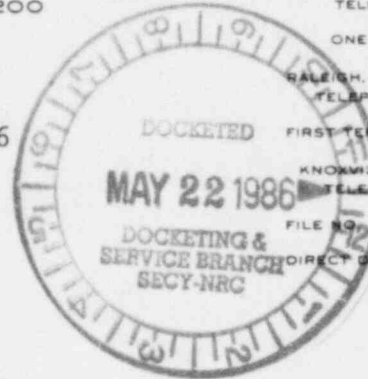
FIRST VIRGINIA BANK TOWER  
P. O. BOX 3889  
NORFOLK, VIRGINIA 23514  
TELEPHONE 804-625-5501  
TELEX 755628

3050 CHAIN BRIDGE ROAD  
P. O. BOX 1147  
FAIRFAX, VIRGINIA 22030  
TELEPHONE 703-352-2200

100 PARK AVENUE  
NEW YORK, NEW YORK 10017  
TELEPHONE 212-309-1000  
TELEX 424549 HUNT U1

ONE HANNOVER SQUARE  
P. O. BOX 109  
RALEIGH, NORTH CAROLINA 27602  
TELEPHONE 919-899-3000

FIRST TENNESSEE BANK BUILDING  
P. O. BOX 951  
KNOXVILLE, TENNESSEE 37901  
TELEPHONE 615-637-4311



FILE NO. 38084.2  
DIRECT DIAL NO. 804 788-8372

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Honorable Morton B. Margulies  
Administrative Law Judge  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

In the Matter of  
General Public Utilities Nuclear  
(Three Mile Island Nuclear Station, Unit No. 1)  
Docket No. 50-289 (CH)

Dear Judge Margulies:

Representatives of TMIA, GPU Nuclear, the NRC Staff and Charles Husted met in Harrisburg, Pennsylvania on May 12, 1986, and discussed the forthcoming prehearing conference. Mrs. Bauser and Mr. Barat (GPUN), Ms. Bradford (TMIA), Mr. Johnson (the Staff), and Ms. Hensley and I (Husted) were present. The participants agreed that I should report to you on the results of our meeting, and that is the purpose of this letter.

As was the case with our report of February 17, 1986, each of the other parties has seen only the first draft of this letter. They will see this copy only when you see it. If I have misstated any views, the matter can be dealt with at the prehearing conference.

1. Identification of witnesses.

Each party will call or may call the witnesses listed below under its name.

(a) Mr. Husted

Charles Husted  
Mr. P  
Paul Christman  
Nelson Brown  
Sam Newton  
Robert Long

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(b) NRC Staff

Keith Christopher  
Raymond Smith (Mr. Smith is ill, and it may  
transpire that he will be unable to attend)  
Peter Baci  
Donald Haverkamp  
William Ward  
Richard Matakas

(c) GPU Nuclear

No witnesses planned at this time

(d) TMIA

If Messrs. Husted, P, Christman and Brown and all of the witnesses listed under (b) above appear at the hearing, TMIA will not seek the attendance of any other witness.

### 2. Confidentiality.

Mrs. Bauser reported at our meeting Mr. P's request that the parties agree to a mechanism that will provide some protection to the identity of Mr. P when he testifies. Mr. Husted does not oppose this wish. The Staff and TMIA took the tentative position that they are opposed to any mechanism that would deny public access to any part of the hearing. Ms. Bauser asked the Staff and TMIA to consider whether it would be acceptable to them if (a) the parties were to agree to continue to use the designation "P" during the hearing and (b) photographs were prohibited while Mr. P was on the stand. The Staff and TMIA responded that they would consider that proposal and be prepared to state their views on it at the prehearing conference.

### 3. Order of Proof.

The parties agree that it would be most helpful to the Board and in the compilation of a relatively orderly record if the live testimony were to proceed roughly on an issue-by-issue basis. Accordingly, the parties recommend the order for live testimony set out below. The parties recognize that this approach will require Mr. Husted to take the stand three times. The parties also recognize the possibility that duplicative cross-examination could result, but the parties believe that the proposed Trial Plan requirement, discussed below, will tend to avoid most such problems. The parties propose that the pre-filed testimony of

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each witness be offered into evidence as a whole when he takes the stand.

<u>Issue</u>	<u>Order of Witnesses</u>
Solicitation of exam answer	Baci and Ward (panel) P Husted
Attitude, forthrightness and cooperation	Stipulation of fact (see Item 8, below) Christopher and Smith (panel) Christman Matakas Husted
Husted's performance	Haverkamp Brown Newton Long Husted

The parties further agree that on the date when pre-filed testimony is required to be filed, each party should serve on you and on the other parties a relatively simple Trial Plan, which should consist of a list of the party's affirmative case witnesses, whether the case is made on direct or on cross-examination, and the subjects on which each will testify. For example, Mr. Husted would file a list of his witnesses and the subject matters on which each would testify, while TMIA would submit for each witness a list of the subject matters into which it would propose to inquire on cross-examination.

#### 4. Order of cross-examination

The parties recommend that Mr. Husted's witnesses be cross-examined in the following order: first by GPU Nuclear, then by the Staff, and finally by TMIA. Staff witnesses should be cross-examined first by TMIA, then by GPU Nuclear and finally by Mr. Husted.

#### 5. Stipulation of documents.

The parties exchanged or compiled lists of proposed documents at the meeting on May 12. Each has agreed to study the others' proposals and respond promptly. Our self-imposed goal for agreeing on a stipulation with respect to the admission of

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documents into evidence is May 23, 1986. We can report that, with respect to the great majority of the documents proposed by the parties, we do not anticipate any disagreement about admission.

### 6. Identification of issues.

The parties remain content with the statement of factual issues set out in my letter to you of February 12, 1986, under Item 2(b).

### 7. Pre-filed testimony.

The parties presently anticipate that each witness who plans to appear will serve written, pre-filed testimony on the other parties and on you.

### 8. Stipulation of fact.

The parties are attempting to reach agreement on a stipulation of fact with respect to the attitude that Mr. Husted appeared to convey during his December 10, 1981 appearance before the Special Master. The Staff presented a draft of such a stipulation at our May 12 meeting. I provided the parties with a revised draft on May 13. The parties anticipate that we can reach a suitable agreement on this matter. We will make every effort to do so by May 20, and if we miss that deadline we will try to have it completed by May 23, when we also hope to have the stipulation with respect to documents completed.

### 9. Prior testimony.

The parties believe that the question of admissibility of prior testimony has now reduced itself to a matter of the prior testimony of three witnesses, namely Messrs. Ward, P and Husted.

#### (a) Mr. Ward

Mr. Husted's position is that Mr. Ward's testimony should not be admitted as a whole for any purpose. The Staff will not offer Mr. Ward's testimony unless Mr. Ward appears as a witness. GPU Nuclear agrees with Mr. Husted's position. TMIA's position is that Mr. Ward's prior testimony should be admitted as a whole for the purpose of establishing the truth of its contents regardless of whether Mr. Ward appears.

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(b) Mr. Husted's position with respect to Mr. P's testimony is identical to his position with respect to Mr. Ward's testimony. The Staff believes that Mr. P's testimony should not be admitted for the truth of the matters asserted therein unless he appears at the hearing. GPU Nuclear's position is identical to that of Mr. Husted. TMIA's position is identical to its position with respect to Mr. Ward's testimony.

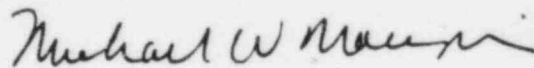
(c) Mr. Husted

Mr. Husted's position is that his prior testimony is admissible for the purpose of establishing, in connection with the forthrightness issue, what his prior testimony was. The Staff agrees with Mr. Husted's position. GPU Nuclear also agrees with this position but wishes to undertake an effort to identify more precisely those portions that should be admitted for this purpose and those that are irrelevant for this purpose. TMIA's position is identical to its position with respect to the testimony of Messrs. Ward and P. GPU Nuclear will attempt to identify the portions of Mr. Husted's testimony that should be admitted for the purpose of establishing his prior testimony and report back to the parties promptly.

10. Schedule.

The parties agreed to recommend to you that the date for filing pre-filed testimony be extended to June 9, 1986. As I reported above, we will attempt to complete a stipulation as to documents and a stipulation of fact on the question of attitude by May 23, 1986.

Yours very truly,



Michael W. Maupin

42/341

cc: Secretary, USNRC,  
Attention: Chief, Docketing  
and Service Section  
Deborah B. Bauser, Esq.  
George E. Johnson, Esq.  
Ms. Louise Bradford  
Atomic Safety and Licensing Board Panel  
Atomic Safety and Licensing Appeal Board