

**United States of America
Nuclear Regulatory Commission**

Meeting with the National Association of Regulatory Utility Commissioners

Public Meeting

**Monday
February 26, 2001**

Rockville, Maryland

The Commission met in open session, pursuant to notice, at 2:00 p.m., at the Nuclear Regulatory Commission, One White Flint North, Rockville, Maryland, the Honorable Richard A. Meserve, Chairman of the Commission, presiding.

COMMISSIONERS PRESENT:

RICHARD A. MESERVE, Chairman of the Commission
NILS J. DIAZ, Member of the Commission
GRETA J. DICUS, Member of the Commission
JEFFREY S. MERRIFIELD, Member of the Commission

STAFF AND PRESENTERS SEATED AT THE COMMISSION TABLE:

ANDREW BATES, Secretary
KAREN D. CYR, General Counsel

NATIONAL ASSOCIATION OF REGULATORY UTILITY COMMISSIONERS

WILLIAM M. NUGENT, Commissioner, Maine Public Utilities Commission and First VA, NARUC
PHILIP T. BRADLEY, Commissioner, S.C. Public Service Commission
J. TERRY DEASON, Commissioner, Florida Public Service Commission
NEAL N. GALVIN, Commissioner, NY Department of Public Service
LAUREN "BUBBA" McDONALD, JR., Chairman, Georgia Public Service Commission
MICHAEL H. DWORKIN, Chair, Vermont Public Service Board
BRIAN O'CONNELL, Director, NARUC, Nuclear Waste Program

Agenda

Opening remarks by Chairman Meserve

Presentations

Mr. William M. Nugent
Mr. Michael H. Dworkin
Mr. J. Terry Deason
Mr. Brian O'Connell
Mr. Lauren "Bubba" McDonald, Jr.

Questions by the Commission

Adjournment

**Proceedings
(2:00 p.m.)**

CHAIRMAN MESERVE: Good afternoon. On behalf of the Commission, I'm very pleased to welcome you representatives of the National Association of Regulatory Utility Commissioners to meet with us this afternoon.

As you know, the Commission does not concern itself with the regulation of economic affairs, our focus is on safety performance of nuclear power reactors and other types of licensees, but we are very much aware of the fact that occasionally our interests very much intersect, perhaps as California's situation has brought home to all of us.

We welcome the opportunity to get with you periodically and to explore issues that lie at the intersection of the activities of our respective Commissions. And so we are very pleased to have a chance to speak with you this afternoon.

Mr. Nugent, do you want to proceed?

MR. NUGENT: Thank you, Mr. Chairman. On behalf of NARUC and my colleagues who are here today. My notes have me introducing you to everybody, but on the theory that you all can read as well as we can, I will dispense with that, and if the Recorder wants me to read them all into the record at some future time, I'll be happy to do that. But you can read, as I say, from left to right here.

The organization, as you know, NARUC, is an association of 80 people who are engaged in the practice of regulation, and among those 80 are you. There are 13 Federal commissions, 67 State commissions, some states having more than one. It creates an opportunity for us to meet periodically and educate ourselves on the practice of regulation, to educate ourselves on issues that are current, and issues that are affected by changing technology, to exchange views with other affected individuals, whether they be members of Federal Agencies or people from the private sector.

And as part of all that, we conduct also specific training. Two notable things, in addition to more obvious, are that we conduct the type of basic training for economic regulation at Camp NARUC each summer, a two-week program that goes into the various fields that we address which include, beyond energy, water and telecommunications and, at least in my case, ferryboat systems. Some people do taxicabs. But there's all kinds of wrinkles that we get that make life constantly diverse and interesting.

It also presents us with an opportunity to offer our views, to kind of just boil them down, come to a common view, and present them to our colleagues at the Federal level both here and in the

Executive Branch and in the Congress.

We believe that NARUC has enjoyed an excellent relationship with you and your staff over time. Former Commissioner Rogers had worked closely with NARUC in the past, something I took a special note of because we both went to the same high school and had a chance to sit down and talk about -- there was a few years difference, but not as much as it might seem -- and talk about experiences we had in common in a building that has long since been demolished and was already 75 years old at the time.

We also appreciated Commissioner Dicus' having joined us and spoken at our meetings last year, and beyond giving us your views and the Commission's position, also having sat in to listen. I think it's important to have that kind of exchange of views.

COMMISSIONER DICUS: Thank you.

MR. NUGENT: We also appreciate the frequent and substantive participation of NRC staff, both Spiros Dragodis and Bob Wood have been active in affairs at the organization, at NARUC, and our people have been involved at NRC activities. Staff Subcommittee Chair Greg White, who is from the Michigan Public Service Commission, has participated in the NRC's regulatory information conference.

Now, we've got a broad range of interests here, and that's why we have such a large delegation here visiting with you this afternoon. We've enunciated a series of principles. Those principles are about how we are to relate to the nuclear industry, and those have been provided to you in advance, I am told, and should be in whatever package that has been given to you in advance.

We have four areas that we are choosing to address. We are going to talk about the electric industry restructuring. Commissioner Dworkin, who is the Chairman of the Vermont Commission, will offer comments on our behalf there. Commissioner Terry Deason, from Florida, will address nuclear waster. We have comments on the transportation that staffer Brian O'Connell, who is at your extreme right as you look at us, will talk about. As I say, we will talk about the transportation issue. And then the escrow of ratepayer payments into the Nuclear Waste Fund will be addressed by Chairman McDonald of the Georgia Commission.

If I seem rushed in going through here, it's because I really value the opportunity to go back and forth, have you question us, have us question you, for that matter, and just to make sure we have the best exchange of information possible in the brief time that we'll be visiting here.

CHAIRMAN MESERVE: Thank you very much. Let me suggest that we go through the various briefings and then, when we finish the statements, then we'll have an opportunity for exchange. That way, we make sure we've covered all the areas and we can focus on the areas that are of greatest concern to us and to you.

MR. NUGENT: That leads to Chairman Dworkin.

MR. DWORWIN: I suppose we will all repeat our thanks, but they are meant for the chance to talk to you. I'm going to try to really literally talk about electric utility restructuring in less than three minutes -- that will put me right up there with the one-minute specialist on, say, National Public Radio -- but I want to characterize two chief elements of it. One is that it has been an effort to allow retail choice to let the retail consumers of electricity, which is one of the fundamental groups of our society, have as much as possible and as informed a choice as possible about the generating options that are available for the power that they want to get. And I use the word "generation" advisedly because although it's often referred to as "deregulation" or "competition", it's vital to recognize that there's been very little progress made on opening up to competition either transmission or distribution.

So the aspects that allow the choice of generation -- the opportunity to have some direct contact either through aggregated groups in a standard contract offer or through bilateral links through actual choice by an end user between the user and the generator -- is the chief characteristic of this.

But there is a secondary characteristic which is vital to how things are playing out now, which has been the effort to create some kind of economically efficient wholesale power market because the concept of each generator contacting each provider has turned out, not surprisingly, to not be workable, and there needs to be some aggregating function, some pooling function -- in essence, a market. The same function that the New York Stock Exchange provides between investors and companies needs to be provided.

Wholesale power markets are, I will be very blunt, in their infant stages and they are not only nowhere near learning how to run smoothly, they are not yet ready to crawl smoothly. We are at the stage that you might equate with what Bill Douglas did with the Securities and Exchange Commission in the early 1930s, we're trying to find a structure to make what needs to happen happen, and we don't even have the option that the Stock Exchange does of stopping trading for a little while when there is a perceived fluctuation or perturbation in the market.

If people want electricity and we think there is a market problem, we don't have the option of saying we're going to stop at 3:00 o'clock this afternoon and get things tidied up by tomorrow morning.

Electricity is a good with instantaneous demand and extremely inconvenient storage, so the ability to create a wholesale market reflects that issue. The fundamental piece that unites those and springs from it is the end of the vertically integrated utility.

The concept that the same utility that did billing and customer contact also did distribution, also did transmission, and also did generation, is one that still exists in parts of the United States, but it is no longer the norm, no longer the paradigm and, most importantly, no longer the expectation of the people who are making the financial decisions about the operations, so that whatever degree you look at in terms of how much retail choice is there or how much disaggregation of generation is there, the fundamental fact is that the people who make the decisions are expecting that those issues will be disaggregated and treated separately.

That leads to an important aspect of what has happened in regard to generation, an unparalleled increase in the concentration of ownership of generating units. We are now at a stage where ten companies control more than half of the generating capacity of the United States, 18 companies control almost three-quarters -- 72 percent of the generating capacity, according to the Department of Energy statistics. That's a degree of ownership which exceeds the previous peak, which was the period of 1929 to 1934, the period which led directly to measures to break up the industry, which led to eventually 200 utilities being created out of 13 which had existed in the early '30s. The 200 that were created existed from the late '40s until the early 1980s. Now we're moving back to a very high degree of concentration again, indeed, one that exceeds that of the late 1920s.

That has significance in a thousand ways. One of them is that the concentration of ownership of generating units is showing up in a concentration of ownership of the nuclear fleet. Now,

there are both goods and bads to this. I do not mean to suggest that it's a simple matter of "big is bad", or that the curse of bigness and grandized in testimony.

There are benefits in terms of efficient operation. There are benefits in terms of shared knowledge. There is a simple fact that if you own multiple plants and something goes wrong at one and you can tell everybody at the others to fix it before it goes wrong at theirs, that that is a benefit that doesn't exist with a fragmented industry.

On the other hand, there are, in fact, a lot of economic implications that people talk about, whether it's full monopoly or monopsony or something less, where the degree of concentration matters.

There is also a fact that springs from the disaggregation of the integrated utility that may be of special significance to you, which is that nuclear power plants produce power, but they also use power, and they particularly use power when they are not running and when they are in a shutdown mode. So the need for reliable, efficient, extremely reliable source of power from offsite is important. Traditionally, that was provided from elsewhere in the system of the same utility that owned the power plant.

When the utility that owns the nuclear power plant no longer owns the rest of the system, you have, at a minimum, a diffusion of responsibility and a need to create effective mechanisms for breaching that gap. There used to be an intra-company transfer, and that's a matter that I know is of concern to you, but that we recognize as well.

In addition, it means that another part of the total system, the transmission grid, is no longer controlled by, planned by, designed by, constructed by, and implemented by the same people who install the nuclear facility and the other generating facilities. That means that there is at least a potential for a mismatch between the physical location of generation and the load centers that move in predictable but changing patterns around the United States, and the transmission grid is the thing that links those two.

What used to be an intra-company analysis of how to make those links is now an inter-company transaction, and the mechanisms for making those have not yet been created. Some of the problems with efficient transmission links between generation and demand are ones that involve siting. Some of the problems are ones that involve environmental problems. But many of the problems are ones that simply arise from the fact that an industry which used to be integrated is now being disaggregated and has not come up with any efficient legitimate mode of pricing which is accepted as legitimate by all the people that pay into it and draw money from it.

Those are some of the principal aspects of the restructuring situation that we see, that I see, and that I think you may be seeing. I'd be interested in your thoughts on how it looks from your side of the table.

MR. NUGENT: Terry.

MR. DEASON: Well, I guess it's my turn. Thank you for the opportunity. It is a pleasure to be here and we appreciate it very much.

Let me begin by saying I feel mildly inadequate, being an accountant engaged in economic regulation, to come and address the Nuclear Regulatory Commission on nuclear waste. However, I'm sure that you can appreciate there are economic consequences of the nuclear waste problem, which certainly generates much interest in the economic regulators, and we wish to share with you some thoughts.

I want to take just a moment and give you some background information which you probably are more familiar with than I and, after doing that, I want to briefly review the four principles which NARUC has adopted as we go forward in trying to address the nuclear waste situation.

NARUC has been actively interested and has participated for the last 20 years in the nuclear waste situation, dating back to the Nuclear Waste Policy Act of 1982 which set forth the national policy regarding nuclear waste, and the solution at that time that the solution was a geologic repository.

NARUC has supported those initiatives. This policy requires the Federal Government -- namely, the Department of Energy -- to take the waste and deposit it in a permanent area, and the consumers of this country are required to pay 1 mill per kWh from all nuclear generated energy in this country. To date, there has been some \$18 billion invested by the electric consumers of this country into this fund. That is not only the principal, but also the interest that has been accumulated on those deposits.

The original plan was for the DOE to be taking the waste beginning 1/31/98. As we know, we are past that date. We are advised now that waste will not be taken sooner than 2010. We are not happy at this situation, but the reality of the question is, how do we go forward from here to best address the situation and the problem?

Anytime that there are differences of opinion these days, it appears that too often courts become involved, and this particular case is no different. There has been litigation. The Federal courts have ruled in support of a number of States which have brought the litigation that DOE has breached the contract and that there is a financial liability. The court cases are proceeding, and I don't think there's been a quantification of that liability as of yet.

There has also been congressional effort to address the problems. There was comprehensive legislation which passed but was vetoed, and the legislation did not -- there was not an override of the veto.

We are optimistic that there will be a recommendation this year on the suitability of Yucca Mountain. That is expected later this year. We are anxiously awaiting that.

In November of last year, the NARUC adopted guiding principles -- and this was adopted in the form of a resolution, and I want to spend just a moment reviewing the four main principles.

I. America needs a permanent solution to nuclear waste disposal.
NARUC supports the national policy that was adopted with the Act of 1982.

We think that it is important that we vigorously pursue the requirements and the milestones that are a part of the Act. We recognize that at this time 2010 is the target date, and we hope that all measures are taken to have 2010 be the target date, and that we hopefully will not see that date continually be pushed out.

We believe that the service life of nuclear plants should not be curtailed as a result of this.

We also believe that ratepayers should not have to pay twice for the government's failure to take the waste when it was contracted for.

We also know that in this process radiation standards have to be developed to protect the public health. We also believe that these standards should be reasonably attainable, and we know that NRC is going to play a major role in that.

We recognize your expertise. We support your standards, and we appreciate all your efforts in this regard.

II. The Nuclear Waste Fund must be managed responsibly and used only for its intended purposes.

We believe that there should be full access to the Fund to achieve the milestones so that hopefully the 2010 date is achieved.

We also firmly believe that the Fund should not be diverted from the intended use either by Congress or DOE to pay settlements for contract damages.

III. We need equitable interim measures pending a permanent solution.

Obviously, with the fact that the original plan was to have waste taken in 1998 and that date was not met, it is a critical concern that there needs to be an interim measure taken until the permanent solution is achieved.

Interim centralized storage is needed. We believe this is superior to the status quo. If we do not have an interim facility of some sort, hopefully in a centralized fashion, it will place additional cost on the utilities and thus the ratepayers.

We note that there has been some discussion concerning the possibility of a private temporary storage facility. We think that this may be a solution. We recognize it will need to be licensed by the NRC, but we also want to emphasize that we realize and hope that it would not become the permanent solution. We feel like at this stage the geological repository at Yucca Mountain, if it meets all the milestones, is the best solution at this point.

IV. We think it is important that NARUC continue to be an active stakeholder in this debate. That concludes my remarks. Once again, thank you, and if I can be of any assistance in answering questions later, I would be glad to do so.

MR. NUGENT: Mr. Chairman, I'd like to turn now to Brian O'Connell, who would address our views on the transportation matter.

MR. O'CONNELL: Unlike the other panelists, I am not a Commissioner, I'm a full-time staffer at NARUC here in Washington, and my position is actually funded by the Department of Energy to be a facilitator of communications between the Commissions and the Federal agencies involved with the Nuclear Waste Program.

As I got into my position to observe this program of the Yucca Mountain development in particular, I noticed quite a bit of attention was placed on nuclear waste transportation, and so I'd like to focus on that area right now, and start with a problem statement that the opponents of the Yucca Mountain Facility have raised fears of transportation safety as a strategy to broaden opposition to the project.

False or distorted claims undermine public confidence. The Federal response so far has been ineffective to some of those charges and claims. We do have a proposed solution, or partial solution. We do recommend that the Commission provide factual information on spent nuclear fuel transportation. The brochure and video being developed by the NRC seems well suited for that purpose. We encourage proceeding with it now.

I'd like to talk about Yucca Mountain spent fuel transportation itself. As I understand, that brochure and video is really on the whole subject of nuclear material transportation, but looking just at spent fuel transportation, the record of safety is excellent, but the public doesn't know it.

The Yucca Mountain Draft Environmental Impact Statement provided a very well organized synopsis and detailed information to support what the transportation record has been, and also makes some projections for what the expectations would be for the future as the volume of material to be moved increases by orders of magnitude. But there were critics of that Draft Environmental Impact Statement that faulted DOE for its lack of specifics in the document, namely, that they did not talk about either the mode of transport, rail or truck, and no routes were specified nor was the timetable exactly identified.

Now, the basis for that was that the Department of Energy felt that in that Draft Environmental Impact Statement the focus was on the development of the repository at Yucca Mountain and would it be suitable, with the expectation that there would be at least five years after that decision in which all of these transportation matters could be sorted out in cooperation with State agencies, local governments, and so forth. In other words, let's not get everyone stirred up over concerns with transportation until we know we have a site. And we understand that, but a lot of the observers, if you will, found that a little unsettling.

Now, the State of Nevada has developed their own estimates of what routes the material may move from around the country to the site, and their own estimates of risk. I shall just understate this a little bit by saying that they vary from the DOE estimates.

Unfortunately, in my opinion, DOE did not respond to any of those distorted claims about safety in particular areas like Atlanta, Georgia, or St. Louis, or Denver, or any of the locations. As you know, they held public hearings on the Draft Environmental Impact Statement that were very well managed, but they were, from the point of view of the attendees, rather unsatisfying in that testimony was received but there was no response. People came to these things expecting a little more give-and-take, a debate if you will, and that's just not the nature of those NEPA processes. So there was some concern exiting from those meetings that the public didn't have the full picture on transportation.

Now, the public looks to their levels of government for truthful information that they can use in their decisionmaking process. Unfortunately, let's be candid, the Department of Energy does not have a high level of recognition and trust within the State of Nevada. That's simply a fact for a lot of reasons owing to the history of nuclear weapons testing and other factors unrelated to this program, but that's simply a fact, so that there is a predisposition within the State to be skeptical at the least.

Now, absent the DOE providing details, the State provided some very impressive facts like

bits of information that helped, I think, create an impression that this may be the weak link in this whole repository project.

Now, if DOE was, in effect, passive, were there other Federal agencies who might have stepped in? You might expect that perhaps EPA could step in. Well, that's simply not their mission. They are a player, but it is not their mission to be in front of this particular train.

The transportation agencies, rail or highway, simply didn't know because DOE hadn't told them what modes were chosen. They are participants, but they are not leaders.

We think NRC, however, does bear a responsibility to interface with the public on this question. I note that in your Strategic Plan the statement appears that "The NRC views building and maintaining public trust and confidence, that NRC is carrying out its mission as an important performance goal for the agency". I did go to the RC2000 meeting last year, and I heard Commissioner Merrifield, as a matter of fact, very eloquently articulate the need for the agency to respond whenever there are distortions and statements about transportation or any other aspect of nuclear matters that instill or erode confidence within the public. So I was very pleased to hear that. Thank you very much for those comments.

We are pleased to note some actions taken by the agency. A very thick document, NUREG 66.72, which reexamined the spent fuel risk estimates, was very comprehensively done. It has every kind of impressive set of tables and calculations that lead to the basic conclusion that the earlier estimates of risk from transportation were very conservative, and that is welcome updated information. More sophisticated computer models were used, and so forth, and your agency is preparing now a guideline that distills that highly technical information into a layman-friendly version, and I encourage this to be produced as soon as possible because it's really needed by many segments of the public, not the least of which are State and local governments who get asked questions about these issues.

And, further, I understand a video is being produced that will complement this, that we think is absolutely needed. A full array of tools to help communicate would definitely help. And so our position is that all of these are really needed, and we encourage them to be deployed as soon as they are available because they are going to be needed.

Let me read from a report from the State of Nevada. "During the next two years, as Nevada challenges or confronts DOE, Congress, and perhaps the NRC, concerning various aspects of the Yucca Mountain program, it will be equally important to undertake efforts to assure that the issue of radioactive waste shipments, including the routes such shipments will use and the cities and communities that will be impacted is given wide exposure nationally. This will require an effort on the part of the State to identify potentially affected States and communities and target information to reach people, governments and institutions in those places."

The Governor followed up on that recommendation and in his State of the State message earlier this year, he asked the State Legislature to provide \$5 million for purposes of launching a nationwide campaign to inform the public on the risks and dangers -- his word -- of shipping spent fuel.

Our conclusion is the NARUC and State Utility Commissions urged the NRC to provide objective and accurate information on spent fuel transportation risks to the public. We recommend this be done in a proactive manner in 2001, and we'd be glad to support you in any way in terms of arranging a forum for doing that. Thank you very much.

MR. NUGENT: Thanks, Brian. Chairman McDonald.

MR. McDONALD: Thank you very much, Mr. Chairman, members of the Commission. I, too, very much appreciate the opportunity to speak with you this afternoon.

Probably one of the most important minutes of my time as an elected commissioner in the State of Georgia, because when we're in the throes of both Federal and State legislation dealing with ethics, dealing with open meetings, and dealing with all the items of line item budgets and things of this nature, we are scrutinized very, very heavily as regulators in our State with our consumers. Usually calls that I receive are prefaced by saying, "Commissioner, I'm a voter and I pay taxes, and this is my problem".

So you've heard the music played here this afternoon about what the issues are, and I guess I'm probably the one that's got to ask that question, and my question will be asked in a formal manner in a few minutes. If we, as State regulators, were to order utilities to pay into an escrow account their Nuclear Waste Fund payments, would this Commission view this action as jeopardizing the utilities' nuclear plant operational accesses?

We have worked diligently through NARUC, through our congressional leaders, to try to bring closure to this item. I was in the hardware and building supply business most of my adult life, and dealt with many customers, and contracts were contracts. And when we had an agreement, I was expected to live up to my side of it and the other party was expected to live up to theirs.

Our utilities in our States that have nuclear facilities, have lived up to the contract with the Department of Energy. It has been said even in the last couple of days in our meetings that there are those in Congress that say that regardless of what the science says, regardless of what history has said, dealing with spent fuels, that it's a political issue, it will always be a political issue with this particular leadership, so we only know how to deal with political issues politically. We try to be 80-percent business and sometimes 20-percent politicians, and now we've gotten into the 20-percent aspect of that.

Our fight, or our concern, is certainly not with the Nuclear Regulatory Commission, we just need clarity. We just need to know that we are on solid ground with this Commission so that we can take the issue to where the real issue is, and that's with the Department of Energy.

The concept of escrowing is consistent really with the goals of the Nuclear Waste Policy Act of 1982. As funds would certainly be preserved for the disposal of commercial nuclear waste, escrowing ratepayer payments into a Nuclear Waste Fund is also consistent with our goals at NARUC. We would set these funds aside in interest-bearing accounts, so that when and if the other party in our contract lives up to their agreement, then those funds would certainly delightfully be transposed right on into the proper place.

There has been tremendous, tremendous discussion about the pros and cons and the legality and everything, and those issues will be taken up in a different playing field. But, really, bottom line, just the most important thing that I see that can come out of a meeting today would be a response from you dealing with this issue.

And the formal -- the formal -- question that I would leave with you today in regards to

this is, in view of the pending dispute with the Department of Energy as yet unresolved, if utilities were ordered by State Public Utility Commissions to mitigate their damages by escrowing Nuclear Waste Fund payments, the Nuclear Regulatory Commission would not view the utilities' compliance with such escrow orders as jeopardizing the status of their nuclear plant operating licenses.

Ladies and gentlemen, I would request of you to honor us and help clear this air from your perspective so that we can continue and get on to the business of doing what the Nuclear Waste Public Policy Act required of us, and I thank you very much.

MR. NUGENT: Mr. Chairman, as is obvious, two of our members have not offered prepared comments. I don't know if they choose to add something -- Commissioner Galvin from New York or Commissioner Bradley from South Carolina?

MR. GALVIN: The only thing I might add is that this morning, as part of the seminar we are now attending in Washington, the financial picture was given to us by a member of the DOE, and at this point said that the dollars going into the Fund, the Fund now is self-sustaining, that the Fund produces more money than it spends on a yearly basis, and will continue to do so without the inclusion of any new funds, which is the reason we are looking to escrow these funds into a special account where we know where the money is going to be going. We don't want to give Congress millions, hundreds of millions of dollars, and not find out when we do need that it's not going to be there.

So, if the Fund is self-sustaining at this point, and we can escrow these monies into an interest-bearing account, Government Bonds, whatever -- Government Bonds I understand are a pretty good, safe bet -- so that we have that money and we know it can be used for the disposal of nuclear waste, which is our primary reason for soliciting your help. Other than that, I know there are going to be multiple problems with transportation of waste, the Yucca Mountain site itself -- I visited Yucca Mountain. I assume that most of the Commissioners, or all of you, have been up and gone into the hole there and taken a good look at it. It's very impressive. I think it's a solution to some of our problems.

So, with that, I thank you for listening to my comments today.

MR. BRADLEY: I thank you for giving us an opportunity to have a forum to discuss with you our concerns. I would like just to briefly reiterate what Commissioner Dworkin said. If we're going to have an energy policy in this country, electricity is going to be the key to it, as you well know, and there has to be a generation mix of all fuel types for this to be effective.

Nuclear is a key part of that. If we are concerned about the environment -- and I am and I think everybody in this room is concerned about the environment. If we weren't, we wouldn't be sitting here. But as you are well aware, nuclear is probably the cleanest form of generation that there is.

So, one of the questions I would like to pose to you all is from the status of where we go in the future as far as new generation is concerned. Do we have to solve the waste problem before we can look at new nuclear generation? It's a legitimate question that I think is of concern to everybody in this room, and certainly people across this country.

The transportation issue is a critically important issue. As you are aware, every day somewhere in this country, high-level nuclear waste or high-level nuclear material is being moved.

I live in South Carolina and, as you are well aware, the high-level waste that is coming out of Europe and perhaps out of the Soviet Union is coming into South Carolina. It is shipped. It's delivered in Charleston, put on rail, and it's moved up to the Savannah River site. And that material has been moved safely. It can be moved safely.

I understand what Brian was saying about the Governor of Nevada and what they intend to do or maybe what they want to do. I think that issue is going to be blown totally out of proportion because we in South Carolina know that it can be moved safely, and it can be moved safely across this country. And to say that we're going to move that nuclear waste through Atlanta, Georgia or Knoxville, Tennessee or any large metropolitan area is nothing but an alarmist tactic that we need -- we and you -- need to take out of the mix.

I think it's important for our association. We, as individual Commissioners, to be involved in all the aspects of going forward with the Yucca Mountain site. As you well know, I think there's 70-plus locations around this country where high-level spent waste sets, and it's certainly a lot safer to put it in one repository that is properly licensed, and when you get to the licensing process, if we get to that point, I would encourage you to move the license in a safe environmental manner, but move it as fast as possible because if we can turn that 2010 date into maybe 2009 or somewhere in that range, it certainly would be a benefit to this country.

And I would also like to applaud you and thank you for the process, licensing process, that you streamlined in relicensing or recommissioning some of the facilities -- the one in Maryland and the one in Okonite County, South Carolina, the Duke facility -- and I think that it shows to me that you all are concerned, that you do want to move in a timely manner and in a safe manner, and see that the public is protected. And I thank you very much for your time and your attention.

MR. NUGENT: Mr. Chairman, our whole delegation thanks you for the opportunity, you and all members of the Commission. We do a lot of hearings ourselves, and this is where it gets interesting, going to the Q-and-A, but, anyway, go ahead. Thanks.

CHAIRMAN MESERVE: Thank you. On behalf of the Commission, I'd like to express appreciation for all of you to take the time to come and visit with us.

Our normal protocol at this time is we sort of rotate the opportunity to ask questions, with alternating who goes first, and Commissioner Diaz is the one that's first up at bat today --

COMMISSIONER DIAZ: I yield.

COMMISSIONER DICUS: Well, that means I get to go last.

CHAIRMAN MESERVE: Let me just say, though, before we get launched into that -- and I will turn to you in a minute, Nils -- is that it is -- this is an interesting time that we're in, no doubt precipitated in large part by events in California. It is apparent at the Federal level that there is going to be a very serious examination of energy policy issues in a way that hasn't occurred since the late '70s. And nuclear, I'm comfortable, is certainly going to be a part of that discussion, and I expect that dealing with some of the nuclear waste issues certainly ought to be a part of that discussion. It remains to be seen how it all is going to play itself out, but I know a lot of individuals in the Congress who are very focused on this issue and have communicated with us, and have communicated publicly about their interest in having legislation in that area. And as I'm sure all of you know, the Vice President is

leading a task group on the Executive Branch to similarly examine energy issues.

So, I think that this is an area that is going to be one which we will all have a lot changes which we will have to grapple with over the next several months, into the years ahead, and that some aspects of it will touch on nuclear related matters and on many of the things that you have discussed with us today.

We're going to have a round of questioning, though. Let me turn to Commissioner Diaz to see if he'd like to --

COMMISSIONER DIAZ: Thank you, Mr. Chairman, it's a pleasure to be here with you today. We do appreciate not only you coming and briefing us, but always the interchanges and all of the good things that we always have done with NARUC, and we will continue to do so.

There were some interesting questions posed today, I will answer none of them. In the true briefing sense, I will just turn questions to you. You are the ones in the hot seat now. But there were a few things that came out, and I'll just start with Mr. Dworkin.

Obviously, you know much more than I do about deregulation, and you should, sir, because that's your bag. I was wondering when you have been looking at the issues of the stability that deregulation will bring to the grid distribution, are there any particular issues that have come out lately that would lead you to believe that the, as you call it, the reliability of site power might be an issue, or are you satisfied that those issues are being handled well?

MR. DWORKIN: I want to strike the balance between what we might call an unduly alarmist view because the simple answer is, no, there is nothing specific that is bothering me, and yet I don't want that to mean the simple leap to the belief there is no problem because institutionally and structurally there are issues that need to be addressed and, to be blunt, I think some of these fall within your bailiwick quite correctly, when what used to be an intra-company transaction becomes an inter-company transaction.

Many of us have some experience with the telecommunications industry. Fifteen or 18 years ago, we saw, for example, that relatively well publicized failures such as the loss of telecommunications to Kennedy Airport and the eastern side of New York for two days occurred not because of a technology problem, not because of a lack of infrastructure, not because of a lack of capital, not because of a regulatory problem, but simply because what used to be handled within a single company now needed to be handled between two companies and the people who needed to talk to each other hadn't figured out who should call who. That is a structural thing which is now going on, and you are going to need to make sure that the nuclear generating stations that you regulate have a person who knows who to call, and that the old assumption that the physical requirement of two independently redundant power feeds adequate to provide a shutdown exist just as you've always required it, but the knowledge of who is at the other end of it and their readiness, willingness and capability to deliver what that physical link can provide is established in a way that makes it work. Whether it's a bilateral contract, whether it's an automated system, I don't really care, but what does matter is that it works when it is needed. And the old assumptions that the physical link solved the problem needs to be replaced with a new assumption that a business relationship plus a physical link is necessary.

MR. NUGENT: Could I offer a comment? Michael and I operate in the same region, the New England region. And the facilities that provided safe and reliable power the day before we started our restructuring are still there. The same people are dispatching it. They've been reorganized out of NEPO into the Independent System Operator of New England. I'm sure there's been changes in personnel, but essentially it's the same group of people.

The challenge that comes now is that the power they deliver to the system is being determined by the bidding process, so it may not be the same generators at any one time. Now, this stresses the system in different ways, but the people who are operating it are competent. They are aware of the changes. And we are aware of the need to strengthen the transmission system to support a competitive market, and no one is certainly intentionally moving in any precipitous way that would risk the reliability of the system or any of the important components that are on it.

We know we need that power at all times, and we're very careful and very conscious of experiences else where in the country about the inadequacy of supplies. We're trying to make sure that the whole system is more than adequate, but you do have to give attention to the details, as Michael has outlined.

COMMISSIONER DIAZ: I think that's an excellent point, one we will certainly take into consideration. On the more broad side of it -- I just can't help but ask the question -- do you see, after the California problems, deregulation accelerating or decelerating?

MR. DWORKIN: Well, I think that none of us know, but I think we all expect that it will be decelerating, that the willingness to brave new waters is sometimes a little less after you've seen a few folks in liferafts, that the likelihood of major leaps forward, many more states moving swiftly to retail choice markets is less.

I do not think it will stop, I think there will still be some, but what I think is frankly more important is that the Federal effort to create meaningful competitive wholesale markets not only won't stop, it has already happened -- the genie is out of the bottle, if you will -- and that the existence of the competitive wholesale providers, independent from a distribution obligation, is an established fact. The understanding of how to work with our situation is not an established fact, so that if I say to you there will be less leaping forward on retail choice, but the disaggregation of the industry and the volatility of the wholesale power markets are not likely to stop, just like the California situation, at least in the near future.

COMMISSIONER DIAZ: Thank you. Commissioner Dicus, would you --

COMMISSIONER DICUS: If I could follow up, we've looked at this, and States have come in and said to us -- and thank you, Commissioner Diaz -- that they are going to go forward with deregulation, they are just not going to make the same mistakes as California. Would you care to comment on that?

MR. DWORKIN: Well, I guess I want to make a two-part comment, that I think that looking at the question of whether States move forward to retail choice really is not as important as looking at the degree of disaggregation of the integrated industry and the significance of the wholesale markets.

Having said that, I think that although many states have many people in them who say they are going to move forward, the real fact of life is that many state legislatures are running scared and that the principal impetus for retail choice was large industrial user groups, many of whom are no longer happy with the risks that they face in a deregulated retail environment, and they are not pushing hard for

it -- in comparison to what they were a few years ago, anyway. So, although many people are still moving on momentum, I think a lot of the push is gone.

COMMISSIONER DICUS: Thank you.

COMMISSIONER DIAZ: Commissioner Deason talked about the nuclear waste, a subject that is very dear to this Commission because we are not only facing it, but we will face it for many years to come in this very slow and systematic manner, I might add.

You brought, I think, two issues -- and also Mr. McDonald -- which I think are kind of separate issues. One is the issue of your support for a permanent repository as the solution that is needed for this country, and something that this Commission has gone on record as saying that we support a permanent repository on the grounds of public health and safety, and we should do so. And I think that's one of the issues you are addressing, you actually want to have that.

The other issue gets a little bit outside of the Commission, and that's the issue of whether the escrow or not, and I will not get into that issue, but there is a parallel issue to it, and that issue is if we look at a permanent repository and we look at where we are, the issue that you people face -- and which we sympathize with -- is how to best utilize the funds of your consumers, the ones that are paying for it, and that is an issue that I think is a large issue.

I would like to say personally there is no immediate -- year 2001 and 2002 public health and safety issue with the spent fuel where it is, it is not something that we have to face this year. It is a larger national issue that we will have to face as time goes on, but it is not an immediate issue, and I think it is something that is important. We don't see that, we don't have an issue with the way that it is. But if you want to comment on any of those points, I'll be happy to --

MR. McDONALD: Just one comment, Commissioner. In some jurisdictions, though, we can't wait -- looking at the time frame of the experience that we've had, we can't wait until we get to a point where we do not have the capability of onsite storage. We've got to go ahead and prepare for it, and the problem that faces me is a fiduciary responsibility to the utility, as well as a responsibility to the 8 million consumers in Georgia, is the fact that the ratepayers are going to be paying twice for what has already supposedly been taken care of. And, again, the time factor is not -- really, the issue is -- and I hope that I may have heard you correctly, and I want to revisit a statement you made that you don't see -- maybe my question is a part of something that you need to possibly answer --

COMMISSIONER DIAZ: I don't think we can answer your question, but we might be able to answer it not in this forum, but a Commission forum, whether there isn't an issue of public health and safety related to the escrow, but I would refer to our counsel. Karen?

MR. McDONALD: I mean, even if this is a nonissue with you, that can help satisfy me a little bit.

COMMISSIONER DIAZ: I know, but we always see this as an issue, but I didn't want to get involved in it. I thought that maybe, Karen, you might want to make a comment.

MS. CYR: We've looked at this. We haven't discussed it with the Commission in terms of the extent to which, if such escrow payments were made, what the impact of that would be on our view of the ongoing viability of the license. We looked at that in some depth, but not a completed thing in terms of looking at it, and we haven't had a chance to discuss that with you in the past. It's something we clearly can and will do.

COMMISSIONER DIAZ: I think the answer is that we will certainly look at it, but I don't think we can -- I can't -- give you an answer in this forum. I don't know if any of my fellow Commissioners would like to tackle that. But we do understand how it is important for you to protect your consumers and to assure that there is a solution, and that we understand, however, the other issue is not --

MR. McDONALD: You know, as it was reported, the expenditures to the project far, far go to the level of the collection of -- and I consider it as a hidden tax. It's a hidden tax for Congress to balance the budget with, or Congress to do whatever other projects with, but I get to the place where -- that I communicate to my congressional delegation -- and say, "Look, folks, you all do the budget process, you all fix it, or I'm going to tell on you". I mean, you've got a hidden tax going on to the consumers of the State of Georgia.

COMMISSIONER DIAZ: We understand. We understand. Thank you.

MR. DEASON: If I may, could I answer the first part of your question? Let me say that I feel strongly, and I think I speak for my fellow Commissioners, that we have confidence that as long as the nuclear generating facilities are in compliance with the licenses that you issue, that there is no immediate threat.

I do agree with Commissioner McDonald, though, our concern is in the longer view and if there are going to be economic consequences. There is a finite amount of onsite storage, and we know that there are going to be units that are going to have to look at alternative means of storage other than the 2010 permanent solution, and there are going to be economic consequences.

We want it to be that safety be maintained, but it be done in the most cost-effective manner. That's one of the reasons we mention the possibility of an interim solution.

COMMISSIONER DIAZ: Thank you. Lastly -- and I'm probably going through every point -- but on transportation there are a series of issues, but I think the main issue I'd like to focus on is our obligation to be factual, and I think we are trying to do that.

We always had a difficult time in the NRC because of the clear separation between being a proponent and being a regulator. However, I believe this Commission has taken in the last few years the clear position that if we can clarify an issue of public health and safety, that we will, or we should, because we take the protection of public health and safety in a broad sense not only for somebody to do something, but to actually inform the public of the facts. And I think the transportation area is one that we have been looking at, and will continue to do so, and I think it is one of the areas that we will be working clearly in the future.

With that, Mr. Chairman, I think I have exceeded my time. Thank you so much.

CHAIRMAN MESERVE: Thank you, Commissioner Diaz. Commissioner Merrifield.

COMMISSIONER MERRIFIELD: Thank you very much, Mr. Chairman. I agree with my fellow Commissioners, this is a good opportunity for us to interact, and I appreciate the time you're taking to

meet with us today.

I'll sort of go in reverse order with Mr. McDonald and see if I can address your question. I'll do it sort of like my fellow Commissioner and start by asking a question of my own, but I want to get to the heart.

I postulate to you if you had -- I presume you are all appointed by your governors --

MR. McDONALD: Elected by the people.

COMMISSIONER MERRIFIELD: You are elected by the people.

MR. McDONALD: Yes, sir.

COMMISSIONER MERRIFIELD: We're appointed by the President, and I know at least some of your fellow commissioners are appointed by governors.

If you were in a circumstance where you had a fund that was under the control of the governor and the legislature, and a local mayor came in and said, "I don't think that the governor and the legislature are managing that fund appropriately, so we're going to put in a local bank and we're going to manage it real well, and then when the governor and the legislature get their act in gear, we'll free up that money to go towards what the legislature originally intended".

Now, I think if that mayor came in and asked you that question, I think you'd feel somewhat reticent about answering it. And the same notion, to be perfectly honest, in my eyes, I would be somewhat reticent about directly answering that. I think you raise legitimate questions, but those questions, I think, are directed to the President and Congress, and are they appropriately or not appropriately utilizing the trust funds that are collected from the fees paid by all of us, including you and me.

I know when I worked up in Congress, the very same issues came up relative to the airlines and Airways Trust Fund, which again is being used to balance the budget. Those are generic issues associated with a number of trust funds out there.

Now, the question, I think, if it came from Congress is, would we feel it was safe if the states went ahead and held that money and it didn't go into the Federal Trust Fund. If Congress asked us that question, in my own eyes, obviously we're going to answer to Congress, and ultimately we are approved by the Senate. But I think it is a very direct question. I think it is a very difficult one that, honestly, would be a very difficult one for us to answer.

MR. McDONALD: Commissioner, thank you for that question. I served as Chairman of the House Appropriations Committee for the State of Georgia House of Representatives for eight year, and during my 20 years in the Georgia General Assembly -- and those were my last eight years -- we passed acts that, for historic preservation, put a tax on real estate transfers, and we even raised fees for hunting and fishing licenses, for green space, for hunting preserves and this type thing. And I was charged with the responsibility of making sure that those revenues that were collected for those specific items were appropriated to those specific items. And even though maybe there were times when we would question as to whether they were going to go to that particular area or not, I certainly wouldn't hold it against my mayor, or a mayor, that may have had an application in with community affairs to seek funding out of the trust fund for infrastructure for water and sewage projects -- and we established a \$500 million trust fund and then had a loan application to cities and counties to do that with -- it was just a clarification in making sure that I followed the agreement that they had.

Our problem with Congress is they are not appropriating the money as even the Department of Energy has requested to complete the project. Congress has held them short. That's not your fault, that's not your issue. That's our issue and Congress' issue. But I'm just saying, just not do us, that you're not going to slap us, because I don't want my two nuclear facilities that will come to your presence to be -- they are nervous right now because I've got a docket in the State of Georgia for this purpose, and they are literally nervous. And I don't need a written statement or a wink or a nod for getting me on my way.

COMMISSIONER MERRIFIELD: I'm not even going to give you smoke signals. I'm just trying to be direct here. The law of the land is that the funds are collected and go into the trust fund, and we were all sworn in to protect and defend the Constitution of the United States. And so to think that we can come out and say, well, we think it's okay and safe for you to violate the law of the land, I don't think I'd be in a position to answer that, especially if any of us ever wanted to be on a commission again.

MR. McDONALD: I'm really not asking you to answer that question, I'm really asking you to say that our issue is the safety, that is our issue.

COMMISSIONER MERRIFIELD: Well, the question is, are there safety consequences from the states going ahead and doing that. I think that would be a question, if directed to us by Congress, that we would wouldn't be in a position to answer.

MR. McDONALD: He's already stated, you know, that the interest that's owned off of the present balance in the fund exceeds the appropriation needs.

COMMISSIONER MERRIFIELD: You talk about the 20 percent in politics that we all are concerned about and are dabbling in. I think we are concerned about that very same 20 percent.

MR. GALVIN: Well, Commissioner, the tale you come up with about the mayor coming in and saying, "I'm not going to pay you anymore money because you haven't done this thing", if a particular city was taxed to put a bridge in across the Hudson River, and they paid enough money in to have the bridge built, and year after year they keep saying, "Send us more money or we're not going to build the bridge", after a while everyone is going to say, "We're not going to send you anymore money, not until we see the bridge up there. Well, that's the position we're in right now.

COMMISSIONER MERRIFIELD: I understand. I understand. I'm not disagreeing with your concern, I'm just saying I think it's awkward for us to answer that question.

MR. BRADLEY: May I comment one quick second?

COMMISSIONER MERRIFIELD: Absolutely.

MR. BRADLEY: In relation to this issue, the lack of proper funding that has been requested is one of the reasons now we are looking at 2010. If we could get the funding that is designated to this -- or that is directed towards this project from the consumers, and use that money in an efficient way, which I presume they are, then this project wouldn't be 2010, we'd probably looking at a lesser date. And so all the conversation I've had is that very thing. If we could get the funding, if we had been getting

the funding, and using it appropriately, then this project would have been on a whole different time schedule. So, I share my fellow Commissioners' concern, but I certainly understand where you're coming from, and I have no problem understanding.

COMMISSIONER MERRIFIELD: On that same issue, the role that is crafted for us by Congress, what we're supposed to do relative to Yucca Mountain, is thumbs-up or thumbs-down. I mean, in essence, that's the role. And a legitimate question is, has Congress been providing money to the project in the right amount, at the right time, and has the Administration been requesting the amount in the right time and the right amount?

COMMISSIONER MERRIFIELD: I presume all of you are going to be meeting with your congressional delegations on the Hill this week, those are very legitimate questions to be asked of them. I want to get to a couple other issues quickly. Mr. Dworkin, you mentioned issues of offsite power. I think that's, as was mentioned by a couple of Commissioners -- I mean, I think those are fair questions to ask. There are two that come to mind that I think are worth postulating. It's not just relative to plants that are off-line that may need that offsite power, it's also the effect of grid stability on plants that are operating.

We've had instances at the Calloway Plant, for example, out in Missouri, where as a result of transmission through the switch yards attendant to that plant, there have been some possibilities and they have had to invest heavily -- I think, \$40-50 million worth of equipment -- to make sure that that plant can continue to operate and giving the varying loads that are being wheeled through that area, I think that's something that we've looked at, I think it's something that the folks at the Nuclear Energy Institute and their members have also looked at, and I think that's a concern.

The other one relative to deregulation, I think, goes to the issue of the amount of power available in an individual area. It is easy to postulate that in a circumstance in which you have insufficient generating capacity -- and I'm from New Hampshire, so I've got two neighbors straddling me on the other side of the table. In the New England region, there are times in the summertime you get real close, and you don't want to be in a position where there's so little capacity left that there's additional pressure put on operating nuclear power plants to keep running in a circumstance where normally you'd want to take those plants out. And from our position, if there's any question about the safety of the plant, the plant should be shut down. And so that's out there.

And as you all are dealing with the issues of sufficient capacity, that's obviously something that I think plays into that as well.

MR. DWORKIN: I'm happy to comment on that. First, I should say one of those things which are sometimes so important, that the most important things in life are the ones you take for granted. If there's any doubt about the safety of the operation of a nuclear power plant, it ought to be shut down and worked on, period. If we're running tight in the reserve margins in a region, that's tough. You still ought to take down the plant and work on it, period.

With that -- which I think we all accept, that if there's any doubt --

COMMISSIONER MERRIFIELD: Right, I think that's a fundamental principle.

MR. DWORKIN: It is worth noting that there are lessons we are learning in the operation of regional power pools which have been moderately painful in the Northeast and very painful in the West. And one of those lessons is that we can predict to a certain degree when there will be high demand, but not fully.

Two years ago, the New England Power Pool assumed that the peak demand would be in July and August, and it therefore scheduled a whole lot of operational work in June. Guess what? Two years ago it was hot in June. Last summer, they extended their summer to June, July and August and scheduled a lot of maintenance work in May. We had an extremely hot early week in May, and found that the absence of power plants was a serious problem leading to a period of more than four hours where prices went from \$30 per unit to \$6,000 per unit. That effect significantly affected the yearwide cost of power in New England.

This year they are predicting for next summer the last week of May plus June, July and August, and heaven only knows what we can learn from protocols about this, but what we can learn is that when your power comes from a few large chunks, that you are very vulnerable to and need to be careful about the scheduling of your maintenance. And a serious concern about the deregulation of the industry that I'll put into a little phrase again -- the proponents for deregulation said for many years that reliability was a given. I 100 percent disagree. Reliability is not a given, it's a constraint. And the difference between a given and a constraint is whether you let it limit your operations, limit your options, limit your choices, and whether you respect it instead of taking it for granted. Reliability has to be seen as a constraint consciously and directly addressed.

The price that we pay for power is extraordinarily sensitive to the degree of demand on the margin for the fairly simple principle that we turn on the cheap stuff first, and the medium expensive stuff next, and the really expensive stuff after that. It's not all that sophisticated except that when you look at the numbers, you find that in cases such as both the New England and the California power pools, periods of as little as four hours, periods of as little as a day or two, have had contributions that have had as much as 5 percent of the total cost of power for the year. A 2 percent reduction in demand for New England in that peak period last year for a period of one day would have led to a reduction in total cost for the year of almost 5 percent. And that year-round reduction of 5 percent for a one-day reduction of 2 percent, it is worth noting that, as in everything else we do, a significant investment in energy efficiency is very cost-effective in a situation. And although it is not your primary responsibility, it is only one of many responsibilities we have. And when we talk about the balance, when we talk about reducing the pressure on running every generating unit flat-out and to the level where we worry about whether we're pushing it too hard, it's worth noting that a cost-effective investment in energy efficiency can radically reduce the stress on the generating and transmission grids, and that should be part of any integrated assessment of the situation. And anytime anybody comes to you and says that a nuke needs to be run more than it otherwise would be run because of a need for power in that area, you've got all your safety reasons that I hope you've got the guts and gumption to stick to, to say no. But you also have the option of saying, "And have you checked for whether an efficiency investment would avoid the need to do that? Have you checked for whether an increased use of the transmission ties to another power pool would avoid the need to do that? Have you checked for whether there are other options besides this?" And those alternative options are part of what any, I'll call it, "rational and economically correct" assessment of the overall situation would do.

You mentioned the example of Calloway, and it's funny, I was thinking of Davis Bessie which about three years ago in a storm lost one its transmission leads, and it took quite a bit of time before it came back. During that time, the plant came off at the margin when it was expected, that had significant effects on the price throughout the entire power pool. I think that that's always an issue. Frankly, I think that it's the ordinary working course of business to come up with ways of making sure that those

leads are in place, and that doing the job right by the operators of the facilities, and doing the job right as you look over the shoulders of the operators of the facilities, involves making sure that that's in place and works smoothly.

I think that there's nothing particularly special about it except that in an industry which is in transition, there are times when it's as simple as that they lose phone number of who they should talk to, and you need to be sure that the mechanics are tested through people doing it, through drills, and not just assumed to work because they did a few years ago.

COMMISSIONER MERRIFIELD: I'd like to make a comment, and I know Commissioner Diaz does, too. I understand the comment you're making about the phone calls. I think there's up sides and down sides to all that in the deregulated marketplace, and the changes that we're seeing relative to our licensees -- we've had a lot of license transfers. We've had a lot of plants that have been bought and sold over the course of the last couple of years.

In the region that we are from, from New England, the Yankee arrangement was a typical way of running these plants. You had multiple owners. You had 10 or 15 owners --

MR. DWORKIN: But they operated as a fleet.

COMMISSIONER MERRIFIELD: -- that operated as a fleet. One of the issues associated with that type of operating structure was it was -- when you add multiple owners to that arrangement, it is easy to have everyone agree not to spend money. It is difficult to have everyone agree to spend money.

And so in those circumstances, obviously one would hope, and one would expect, that those owners in a collaborative sense would spend the money to do what was necessary to meet the regulatory requirements in safety.

From an operating perspective, that may not always necessarily be the case, and one need only look at the capacity factors of some of the Yankee units in New England to see that. And the New York Times article two weeks ago talked about the changes that had occurred at Pilgrim as a result of a change in ownership structure which in instructive, the fact that you can bring in experts from other plants, and that you can also -- there's a greater willingness and ease to wish to spend money --

MR. DWORKIN: I hope that my comments have not led you to think I'm taking a generic position that utility plants -- I'm sorry -- that nuclear plants should be owned as part of an integrated operation of a distribution utility. There are some good things about that and there are some bad things about it. And the split-off to an independent specialized manager has many attractions and some costs as well.

I'm taking much less a philosophical approach on this than I am a pragmatic nuts-and-bolts approach, which is that if those transfers do occur, there are an awful lot of pieces of making it go smoothly that need to be very carefully checked in a nuts-and-bolts working like way that sets ideological questions to the side.

COMMISSIONER MERRIFIELD: I wouldn't disagree. I mean, obviously, we, as a Commission, need to opine on each and every one of the license transfers that comes before us. I think, for my part, a couple that we've already done, but obviously going forward, each one of those is going to have to be viewed on its individual characteristics, and we'll see where it goes.

COMMISSIONER DIAZ: I'd just like to thank, Commissioner. Just a quick comment -- I'm sure you know this, but just in case it's not very widespread -- we now know that in many occasions the safest thing for a nuclear power plant is not to be shut down, that we have now -- we don't know all there is to know about it. Ten years ago, something happened a little bit out of a tech spec, down you go. Now the Commission has taken a -- let me use the best word -- risk-informed approach, and we now realize that in many, many, many situations, sometimes including weather, it is safer to keep them operating, even if sometimes reducing power, than actually to shut them down.

And I think we are going to be improving in that sense because I think it is vital to grid stability and to the power plants themselves to know when do they have to continue to operate, even if they have a minor problem that years ago we would have said "shut it down", we now know that it is better to keep them operating.

COMMISSIONER MERRIFIELD: I share that clarification. I agree with Commissioner Diaz.

MR. DWORKIN: I just hope it's clear that my sensation is that if you think that it's better operating, it's clear that the plant will be better operational status, then that's one question. If you think that it's better to keep it operating because somebody thinks they need the power for the grid, that's a very different one.

MR. NUGENT: If I could offer a comment which I think is appropriate at this point, you are properly exploring the question of whether restructuring represents an increased threat to the operation of the nuclear plant that you've got your principle responsibility for, but at the same time restructuring is having some positive effects which are making the system more robust and more reliable.

I want to assure you that you can come back to New Hampshire this summer and your power will stay on. Of the --

COMMISSIONER MERRIFIELD: I have no doubts about that, nor do my parents, who still live there.

MR. NUGENT: Well, we thank you for your confidence in our ability, but the New England market and Texas are two that are forecast to have substantial surpluses in the short- and mid-term future, and other areas are moving, I think, to improve their own situation.

My own experience in Maine -- just to do a quick numbers thing here -- is we had 3100 megawatts of generating capacity against a peak demand of 1800 when Maine Yankee was still with us. We closed that down, as you are well aware, taking us down to 2200. Because of restructuring opportunities and prompt permitting -- not my role -- we are now at about 3700 megawatts. New generators are in, and we have another 1,000 that have sought permitting, with the idea of being in operation within two to three years.

So, there is a response that's coming from there. Your nuclear plants are not being asked to carry the entire load, and this additional generating capacity and the transmission improvements that will be made to support that will help to ensure a continued safe environment for the operation of the plants that you are most concerned about properly.

CHAIRMAN MESERVE: I'd like to step back for a minute. All of you have made very helpful comments to us, but it would be helpful for me to hear something more from you about what things we're doing wrong. I mean, you've all been very complimentary -- aside from the question in which you'd like a semaphore signal of some kind -- we don't have much in the way of guidance from you on things that are creating problems for you that we're doing, areas where we have -- you have some suggestions for us to perhaps undertake our interactions with our licensees even with you in ways that would be more helpful.

MR. NUGENT: I have an answer that for that, but it is the kind that could undercut other comments that someone wants to offer.

MR. O'CONNELL: I just have one on the radiation standard. I just applaud the work of the Commission in articulating the position that lower numbers is not always an indicator of higher safety. We agree that your thoughtful understanding, deeper understanding of the effects of radiation on life is well articulated and valued, and we just encourage you to persist.

COMMISSIONER MERRIFIELD: Tell that to Congress, too.

MR. NUGENT: I mean, reasoned attention to risk analysis is appropriate, and I think that we all deal with that, and we all know that we deal in a public environment.

Actually, I think this delegation, as a group, generally applauds the work you've done and the interaction we've had. To some extent, the pitch has to be thrown at you, and that has to come from the DOE with the report, then you have to do your reaction to that. We know that that's not served up to you, and we expect that you'll act as promptly as the law requires you to and you feel your professional responsibilities require you to. But we're going to watch closely, as you might imagine, and a lot of other people will, and we'll offer -- if we think there is a shortcoming there, we'll offer -- you know, much the same as we talk among ourselves when we get together at these NARUC meetings, we all understand the problems you've got in both the process and the things served up to you, and we also understand the situation that we've put you in with Chairman McDonald's question to you. We are searching for proper tactics to advance the public interest as we think we have an obligation to do. We're concerned about what your reaction may be. We've all been asked those same questions at public hearings ourselves, and I would say that at least I have responded in similar fashion, and I wouldn't be surprised if Chairman McDonald has as well, but that doesn't mean we don't push you.

MR. DWORKIN: There's one thought I have which might be helpful, and I offer it from my own experience and in part I put on my old law professor hat, and I'll put on my old businessman hat, too. Predictability is nice, particularly in a capital-intensive industry. That's the business answer.

The law professor answer is that we go back 50 years to whatever you can do by rule instead of by case-by-case adjudication is attractive.

The combination of the two is a very sympathetic comment that as you're dealing with relicensing and renewal items, it's possible that -- you know, just take them one at a time in a kind of common law of relicensing will emerge, and people will look at the examples and try to make the best guesses about what will happen. However, if you believe it is feasible to develop some general principles, general guidance that would have predictive capability, it would be extremely useful to the people in the outside world to be able, with as much probability of success as possible and with as little resource cost as possible, to be able to assess the likelihood of renewal of facilities.

And so I make that in a very sympathetic -- as I know how hard it is to do -- comment, and yet with a recognition that both legally and businesslike, it's an extremely valuable undertaking.

CHAIRMAN MESERVE: Let me just say on that point that we do recognize that issue. The staff has generated what we call a generic aging lessons learned report, which has been an effort from the first set of plants that we've examined for license renewal to see how we should deal with the issues, develop a report that would be available not only to ourselves, but to our licensees as to model ways in which to deal with common issues. And it's our hope that we get efficiency from that and that the tasks of examining license renewal will be diminished for subsequent plants as a result of that kind of an exercise. And, of course, it's informative to the licensees as well, if they know what sorts of things are ones that pass muster here. It enables them to focus their resources. I'm sure we can do much more in that area, but that is something that we do recognize.

MR. DWORKIN: I confess my ignorance you've got the project, and I express my pleasure that that's the kind of thing you're doing.

CHAIRMAN MESERVE: Let me turn to you, though, I must admit that your presentation on restructuring suggests that there are many problems, including very many subtle problems, with which we have to deal in order to deal with this revision that we're all having to deal with in the electric generation business.

What is your estimate as to when this is going to stabilize? Is there anyone out there who is doing it right? We know we have a model of what not to do. Are there lessons we should learn from airline deregulation or other areas that has not been applied in this area that we should be applying? You obviously are much more deeply into this than we are, but I'm interested in when a lot of the confusion that is currently -- we're all currently confronted with is going to dissipate.

MR. DWORKIN: Let me draw a parable or metaphor for starters. Sometimes you're in whitewater going down a river, and you go through some rapids, and then you get a nice, clear spot and you take a breath, and then you're in an eddy trying to stop and have lunch. Other times you're in whitewater and it keeps on going, and it keeps on going, and it keeps on going. Having lived in a fair amount of detail through the telecommunications industry, there are big and little waves, but there was always a lot of whitewater.

This is going to go for a while, is my gut reaction. I think that change is a fact of life, that in this industry there's going to be continuing effort to try to figure out how to have successful wholesale markets. We do not know what to do about the clash between the extraordinarily rapid concentration of control of generation that has occurred in the last eight years, when that is contrasted against the national policy of desiring to have a competitive wholesale market.

We do not know the lessons of how to develop a functioning -- efficiently functioning market with legitimacy to the people that play in it and the people that are affected by it before a commodity which is instantaneously demanded and very hard to store, and which is provided by very few players and used by a great many. Those are issues that are comparable, as I say, to the effort that took the Securities and Exchange, that turned the New York Stock Exchange into the most efficient commodities transaction of finance in the world, but it was an effort that went from the early 1930s to the '50s before it had really achieved itself, and even now it isn't a done task.

I think that this is a long-term effort, and I've spent the major part of my life dealing on the interface with technology, and I believe that it is likely that just as we get to some stable set of business relationships, there will be a technological change that we can't predict that will upset them all anyway.

So, I think that we can't help that it's all going to get simple in a few years. I'm sorry that's not a tidy, workable answer. I will say that there's one piece that I think --

CHAIRMAN MESERVE: Well, you did say something, that our prospect was continuing whitewater or maybe some pools rather than a waterfall, a Niagara Falls.

MR. DWORKIN: Yes, and I'm glad you fed that back to me because I do not believe we have a disaster. I have great qualms about making the restructuring of the industry work well, but first I believe it's a reality that we have to work with whether we like it or not. And, secondly, I think it has many positive elements that may well emerge as we work with it. And I don't want to suggest that this is a bad thing, all it is is a hard, challenging thing.

In that context, just one more thing that I am disturbed by has been a significant trend towards the classification of a great deal of information that used to be public, as proprietary. I know that the most successful wholesale markets in the world right now -- I'd say that Britain is probably -- are ones that operate with great transparency of information about all transactions. The fact that the wholesale transactions within the U.S. right now are generally private for at least six months, often for a year, and sometimes forever, makes the policing of the efficient operation of those markets extremely difficult, and it makes the establishment of the legitimacy of the transactions a very difficult issue for public acceptance, and I believe that it's very important that we move not towards more proprietary information about negotiations, but considerably more public awareness and transparency about them. And I'll say again that the posting of trades is an important element of what keeps the NASDAQ and the NYSE functioning well.

I'm sorry, Bill.

MR. NUGENT: No. And I don't take issue with that last point. Certainly, we, in doing our work, as you do, need access to information and the basis on which you get it, of course, is -- in some cases, there have to be grants of confidentiality, in other cases not. You want as much as possible in the public sector.

I just want to make the point here that as we go through this restructuring, it seems to me that an important focus is the safety, that you guys have to be assured that the plants are running right.

I think the broader question of how long restructuring will take is one that doesn't directly and necessarily affect the safety. We have different models. In five of the New England States have restructured. Michael has yet to get there, but he may. But we all depend on a wholesale market that requires some disciplining and some shaping so that it can be reliable. In each of the five New England States that has restructured, they have already all made changes, so it's a continuing process. It will probably continue for many, many years. It should achieve some sort of stable state in -- I would say, in the mid-term future. But that goes to questions of markets and codes of conduct among players and so on, things of that sort, but the reliability is something that none of us is intentionally trying to undercut.

CHAIRMAN MESERVE: Before I turn to Commissioner Dicus, I have just one comment I'd like to make on the issue of transportation and the need for information.

We do have, as one of our strategic goals, an effort to restore/establish/maintain public confidence, and I think we all see that as being something that is encouraged by being open in dealing with the public and being straightforward and obviously being truthful and accurate in what we say.

The challenge we have is that we go too far, it is seen as advocacy, and it in fact undermines what we're trying to establish as "we're going to call them as we see them" on the basis of the safety and on the merits. So I think that is something I'd just ask you to bear in mind as we approach this. This is not quite so simple as us being out in front of the Department of Energy on certain issues, or whoever on certain issues. Our role is not to be an advocate, one way or another, with regard to Yucca Mountain or any of the other matters that are in front of us.

We try to generate information that we think will inform our deliberations, provide guidance to the public and guidance to our licensees.

MR. NUGENT: We walk that line, too, Mr. Chairman, on many issues within our own State, and I think you will find no more understanding a forum in that regard than the NARUC itself. And if you have a particular view that you would like to advance in that regard, or staff, we would welcome you into that forum. And I think many of the State Commissions would welcome your or your staff's appearance in their states, or regionally as we often work, to present your views as well in that regard. You'd get an active response from your colleagues in NARUC.

CHAIRMAN MESERVE: Thank you very much, appreciate that. Commissioner Dicus.

COMMISSIONER DICUS: Thank you, Mr. Chairman. First of all, let me tell you how much I appreciate your coming, taking time out of your meetings in Washington, to be here to testify before us. It's been some years, so it's good to have you. I don't know if we need to have you every year, but we'd like to have you a little more frequently than we have because I think you can tell from the interchange we've had that this has been very useful to all of us, and I think you know that I'm the NRC's Liaison to NARUC, and I've been to many meetings, and I've testified before you. I've been on that side of the table when you were sitting on this side of the table, and your questions were always gentle, so mine will be as well. But I do appreciate your coming here and so forth. And I'm happy also you have no issues with the NRC. We like that.

I want to turn to the transportation issue which you've heard most of us talk about, and I think you probably know that when I was on the Southern States Energy Board, I did serve on a couple of committees, and one of them was on transportation. And we dealt with the issue of transportation of radioactive material, spent fuel and other radioactive materials, and I know, as a health physicist, that it's not a technical issue, and it's not a health and safety issue, but it is a political issue. It is a public perception issue, and we have to deal with it.

When DOE was sitting over there at one of the briefings we had, I brought it up to them, that I didn't think they were addressing the transportation issue like they should, given the fact it's not a health and safety issue, but you're going to have to deal with it because the States are going to deal with it.

Now, my question to you -- and one of you can answer, or all of you, or whatever -- is, as

Public Utility Commissions, are you dealing in your States with the transportation issue?

MR. McDONALD: We very definitely are in Georgia. I mean, it's because of our relationship with my friend in South Carolina, the Savannah River Project, and we have a person on our staff that basically is the captain of -- Bruce is designated, and teaches, and works with all the agencies from the Emergency Response Systems to law enforcement to the general public itself in trying to shore up that public confidence that these can move safely. And very honestly, we've had a legislator in Georgia that served two terms in the Georgia House of Representatives, and her key issue day in and day out was the alarmist on transportation, and that was her single issue as a legislator, and kept that fire burning. Fortunately, or unfortunately, she was not sent back this year to the General Assembly, but it is very, very much of an issue with us.

COMMISSIONER DICUS: Is it being effective?

MR. McDONALD: I think so, yes, I really do. You know, there are those that are going to listen --

COMMISSIONER DICUS: Of course.

MR. McDONALD: -- and then there are those that are absolutely not going to listen, and you can show all the science and all the facts and figures that you can, but if they are not going to listen, they are not going to listen.

COMMISSIONER DICUS: A few months ago, we had several Canadian Senators in to see us, and we met with them. One of the questions they put to me had to do with transportation and, you know, whether we thought, if we did -- and I say "if", that's a big "if" -- do get a license application for Yucca Mountain and do approve it -- another big "if" -- would we ever be able to transport the spent fuel. And I said, yeah. And they said, "No, you won't be able to". As of the first few shipments, I expect people laying in the road -- I mean, the whole thing you go through -- but look at the shipments going to WIPP now. There was some controversy for the first few shipments, and now they are going all the time. So, I think you can do it, but I think we need a very active public perception, and it may not be us. We have some problems. We need to correct wrong information -- and I agree with Commissioner Merrifield that maybe we don't do as much as we should to correct wrong information, but there needs to be a public information on what the real risks are. And I would suggest that the PUCs do have a significant role in that regard.

MR. McDONALD: Commissioner, let me parallel it by this brief statement. It has not been near the issue, public issue, as was changing the State Flag.

COMMISSIONER DICUS: I watched the news on that one, that was a big issue. But you got the State Flag changed.

MR. McDONALD: Yes, ma'am, and we can transport nuclear spent fuel, too.

COMMISSIONER DICUS: I'm pleased to hear that.

MR. BRADLEY: Commissioner, if I may, right quick, the way the material is transported through South Carolina, it's unreal the law enforcement people that are involved. The South Carolina Law Enforcement Division, which is the State equivalent to SLED, they have a division that is specifically trained to deal with this. I think their biggest fear in moving it is something from the public, somebody trying to derail a train or take track out and this kind of stuff. So, I'm kind of like Bubba, with the track record we've got, it's no longer a thing with the public. I mean, they notify people that it's coming in, and all this kind of stuff, and it's just --

COMMISSIONER DICUS: When I was back in Arkansas, one of my jobs was to be the person notified of shipments and tell the Governor's office about it.

Let me ask -- someone else want to make a comment about the transportation?

MR. O'CONNELL: I had a chance to go to a DOE outreach workshop in Portland a few weeks ago, and I found myself amongst the emergency preparedness, public safety people, and I came away very confident that they will know what to do when they know what the routes are, and what the forecasts are and so forth, and they express that. These are professionals who have confidence in what they are doing.

COMMISSIONER DICUS: Let me --

MR. NUGENT: It will be an issue in Maine, it is right now, but right now it is not front and center because stuff isn't likely to move in the near-term future. As Commissioners, as you know, we, as you do, have multi-year terms. I've now been appointed Commissioner by three Governors, and you work to maintain the credibility, your own credibility and the credibility of the institution, and when those issues come up we will try to deal with them directly. I can't say which way you go until you see what the plan is, and schedule, and so on. Assuming it's well thought out, I think we would be on the side of support and reason.

MR. GALVIN: I don't think there are enough dollars spent on public education.

COMMISSIONER DICUS: No, there are not.

MR. GALVIN: You have to find some way to reeducate the people as to what nuclear means and allay most of their fears. My wife -- here I am, I'm trying to get nuclear plants built in New York, and she's telling me, "If you get another plant built there, you move out of my house". She can't stand it. She's scared to death of it. No matter what I try to do or how I try to explain it, I can't make any headway with her. Of course, being a woman, you'd understand that.

COMMISSIONER DICUS: I'm not going to touch that.

MR. GALVIN: I had to throw that out there. But there really is a lack of education of the general public on nuclear, nuclear waste, nuclear energy, what it provides, how environmentally safe it is, and I think that we've got to find some way to get more dollars out there and reeducate people on the whole problem.

MR. McDONALD: There's a lack of -- rather than a lack of education, there is a lack of desire to know about it, but what will elevate that point is when, as we are experiencing right now, the increased cost of energy. And when it's all relative, the pocketbook is going to have a tremendous educational factor and acceptance factor over a lot of other things that are emotional or whatever.

COMMISSIONER DICUS: Yes. I need to talk to the Maryland Public Utility Commission to get gas prices down, from my last natural gas bill.

One final question, if I could, has to do in November, your resolution which you discussed, on high level nuclear waste -- in particular, that we get reasonably attainable radiation standards for our repository.

Could I ask what NARUC, as an organization, is doing with activities to support that, particularly with Congress, or with other agencies?

MR. O'CONNELL: Well, we did make our comments on the Draft Environmental Impact Statement as well as the Proposed Rule --

COMMISSIONER DICUS: Ours or --

MR. O'CONNELL: No, the EPA Proposed Rule. And I must say, as an engineer with several degrees unfamiliar with this field, that was some of the most difficult reading I have ever attempted in my life, and I said that at the hearing that EPA held on those Proposed Rules, that you, as an agency, need to do a better job in communicating what this is all about because that rule was incomprehensible to the nonexpert. The issue of volume of water flowing underneath the desert, for example -- way over my head as to what that was all about.

COMMISSIONER DICUS: But it makes a very big difference.

MR. O'CONNELL: That's correct, and I respected that. And I read your staff's review, which was also difficult reading, but it had to be scientifically precise, and that's why my earlier comment that I support the position you took and encourage you to persist in it. We have not taken a proactive role, but we made a comment just the other day, as we get ready to deal with a new Administration and a new Congress, it might be well for us to express our views to the new Administrator of EPA.

CHAIRMAN MESERVE: We welcome that.

COMMISSIONER DICUS: Yes, we absolutely would. One final thought, and I have one more very short question that can be answered yes or no. You've mentioned that you weren't sure -- one of you, I can't remember who now -- that the level of trust for DOE in Nevada may not be that high. How about the level of trust for the NRC? Do you have a readout on that?

MR. GALVIN: Well, because of what happened in New York with our nuclear plant, Indian Point 2, and the fact that the NRC was found out to be a little delinquent in the way they reported the safety factors of the plant, the general feeling in the area is that "you can't believe them just like you can't believe your congressman, it doesn't make any difference". But when they came out with their first statements which were found to be inaccurate and then corrected it, it didn't play well at all. And the congress people and Senators still are of a mind that the NRC really is in a tough spot right now in order to improve that.

COMMISSIONER DICUS: And that would transfer to Nevada?

MR. GALVIN: I don't know whether it would transfer to Nevada or not. Nevada -- the Mayor of Nevada just had a special on TV, yesterday or the day before it came out, and although he mentioned that he was the chief counsel for the Mafia -- and he came right out with it -- when they first started in Las Vegas, and he pointed to an empty parcel of land where he wanted to build a sports center, sports complex, et cetera, et cetera. He also mentioned that it's not that close to Yucca Mountain. So, it's there. He didn't expound on it in any other way, it's just that he did mention it. So, I don't know what's been transferred or what hasn't been transferred.

COMMISSIONER DICUS: My general feeling is, from feedback from staff and from other folks in Nevada, is that probably our credibility is certainly going up. Now, I went about a year and a half ago -- I guess it's almost two years now -- I went out and I spent a day meeting with anyone in Nevada who wanted to meet with me. And we started like 8:00 in the morning, I think we finished at 5:30 that afternoon, and I met with state and local governments, I met with individual citizens, and I learned that we were not, as NRC, as an agency, representing ourselves particularly well in public meetings. In fact, some people didn't know that we were not part of DOE. And some people didn't know that we were the regulator.

So, I came back here to the agency and I talked to our folks who were going out, and we made a few changes, and it was simple things, just some of the slides we were using -- they weren't wrong, but they simply sent a message that the public saw differently. So, my feedback from staff that goes out is that things are doing much better now, but it would be interesting to hear that.

MR. DWORKIN: Well, I guess I could comment with a limited degree of knowledge, with a three-part response. First, there's a general background which I think many people have that Ronald Reagan encapsulated as "Government is not the solution, Government is the problem", and the NRC is a piece of that Government that he characterized that way, and it rung in a lot of people's minds, and you've got a lot of pushing the noodle uphill to get from behind that.

There's a second piece, which is that people don't know a lot about science, but nuclear is scary and it goes boom. And it kills you by going boom and it kills you in a silent way that you can't suspect. And that is inherent in the word "nuclear" in American perception, and has been for 56 years now.

You've got both of those -- if you will, two strikes -- against you when you go into the batter's box. Then when you start to swing, my perception is that the NRC's credibility is higher than it was 20-25 years ago. I need to adjust for whether this is a change between me as a college student, and me as somebody close to the industry, but whether it's me or the real world's perception out there, it's changed.

I think that in part the split from the old Atomic Energy Commission and the focus on being the regulator rather than the advocate has slowly, incrementally, bit by bit, but ultimately in a meaningful way, begun to be part of the perceptions of people that deal with this, at least professionally if not incidentally, and I believe that the technical quality of the Commission's work by people that come and testify in my hearing room has been regarded as a pretty good technical quality. Now, that's not a public perception of 200 people in a town meeting, it's what kind of witnesses do you walk into a hearing room that have somebody to pay them to testify, and I don't think it will give you the assurance that every coffee shop in America is going to think that you've done it right if you do what you think is right, but I think it does suggest that walking into the batter's box with two strikes against you, it looks like your swing is relatively level to at least the batting coaches, if not to the fans.

COMMISSIONER DICUS: Thank you. That's all, Mr. Chairman.

CHAIRMAN MESERVE: Commissioner Merrifield wanted to make a brief comment.

COMMISSIONER MERRIFIELD: Yes. I just wanted to close out -- because I know the others have talked about transportation -- I did want to make a brief mention as well. I have, as was quoted by Mr. O'Connell, I have said in public that our agency has acted very much like the Maytag repairman where he's somewhat reticent of getting out in front and saying too much. And I, in my own respect, do believe we can

do a little bit more.

It is, however, a careful balance, as the Chairman has alluded, from our origins in the Atomic Energy Commission where we were split apart and seen as being the one who should be the regulator. I think it is important to us, as Commissioner Dicus has pointed out, to maintain our credibility, or enhance our credibility relative to Nevada, so that at the end of the day, whatever decision the Commission makes relative to Yucca Mountain, that there is a high degree of credibility behind that ultimate decision.

Now, in light of that, obviously we have regulations and are applying them relative to spent fuel storage casks, and I think it's incumbent on us, not in a promotional way but in an educational way, to make information available on our Website and through public documents, so that the public who want to become aware of what these casks are, how they are designed, how they are regulated, and whether or not they are safe, can find that information. I think that is our obligation to do that.

Does that put us in a position of going door-to-door from St. Louis to Atlanta to elsewhere to tell people how great these casks are and the extent to which they should be used to transport fuel, wherever that ultimate location is, I think the answer to that is no.

Ultimately, the responsibility for communicating to the public is the responsibility of the Department of Energy. The Navy, for its part, has had I don't know how many thousand shipments of spent fuel over the course of the last 50 years, hundreds of them from my home State of New Hampshire. I'm very proud of Portsmouth Naval Shipyard -- and my Maine colleague probably would disagree about where Portsmouth is located -- but we're very proud of that shipyard and there have been many, many shipments from there. That is a role undertaken by the Navy, and they go out with their slide show and with their films and they talk about that. In my eyes, that's not appropriate for us to do. We should provide public information on our Website and elsewhere, we should answer questions where they are appropriate but, ultimately, I think DOE has got to be the one out there educating people.

We're going to have a new set of people, there's no question about it. We are regulating 103 operating nuclear power plants right now. They are located in, I think, all of the states represented at this table, as well as others. And we have the public surrounding those plants who have some degree of comfort. They know where the plants are at this point. They may have doubts about safety, but the plants have been there operating for a while.

When it comes to the transportation of spent fuel, we're going to have people in cities, in towns across America who have never really come into contact with nuclear materials of this age, and so we will have a whole new level of stakeholders that all of us will be grappling with. It will be difficult for us and the group for whom we will have to provide good and accurate information. It's going to be a significant task, one that I think we obviously need to do the best we can but, as I said, I think DOE has also got its role in that process as well.

MR. NUGENT: Well, I take issue with you to some extent now. We both make decisions that, generally speaking, the public doesn't understand, or oftentimes doesn't understand. I mean, they understand the bottom line, but a lot of stuff in the middle they don't understand very well. And I will readily grant that you've got 280 million constituents -- through elected representatives you've got them, and I've got a million and a quarter -- but I think to some extent you've got to maintain public credibility. A way to do it is to go out and meet the public in various forms. And you go out there -- and I do it periodically -- and just let the public set the agenda. I take PUC on the road. Every few months, I go out and I find a place we don't normally go to for hearings, and I go in there and give the public the chance to just question me on anything they want to question me about. Now, this is a little different than your situation, I have a broader responsibility. Typically, they start out very quiet. And then I'll tee-up some issues for them, and you get a discussion going. I think they want to know whether you're smart, you're not in somebody's hip pocket, and you're working hard, and once you can establish that, they'll cut you some slack.

Now, admittedly, we're a lot more grassroots than you are, and -- I think this is public education, but it is not trying to persuade them of a certain issue. The public is understanding of the fact that matters come before you and you can't give them the answer to a matter before you've heard the thing. They understand the fairness that you're giving.

I would encourage you to meet with people. I don't know how you'd do it with 280 million people, and I'm sure you guys can figure that out. There are forums you'll find, and do it, but the public will really appreciate your leveling with them.

COMMISSIONER MERRIFIELD: I don't necessarily disagree with you. I guess the point I was trying to make was, I think we do have an obligation to make ourselves available and to answer the questions of the public, and it's going to be difficult to do that given all the different transportation routes. What we can't do is be the ones out there introducing the idea of the cask and the fact that they're going to be utilized. That's really the distinction we need to make. There's a very careful line we need to tread to make sure that our credibility on the regulation of these casks is upheld because that's the important thing, and that was the only point I was trying to make.

CHAIRMAN MESERVE: I'd like to thank you all for joining with us this afternoon, this has been a very helpful exchange. Let me say that, on behalf of the Commission, as there are issues that arise before NARUC that you'd like to raise with us, we'd very much welcome the opportunity to interact with you and to learn from you and, if there are problems that we're creating, please do not hesitate to let us know.

MR. NUGENT: We thank you for the opportunity to visit with you. We know you've given us more time than you had originally planned, that may squeeze your agenda somewhere else. We also left with you, as some of you noted, these are our the directory of probably several hundred people -- there are the 280 Commissioners, Federal and State, who are involved in regulation, and the important staff people there that will answer, and we do respect ex parte communications, we understand that rule. We live by it ourselves.

MR. McDONALD: That's not the best picture of me, by the way.

CHAIRMAN MESERVE: Thank you very much.

MR. BRADLEY: Might we just say that, as well, there are issues that we might can help you there with, we would appreciate hearing from you, too. It needs to be a two-way street.

CHAIRMAN MESERVE: Thank you very much. We'll count on this being a two-way street.
(Whereupon, at 4:00 p.m., the meeting was concluded.)