

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PRE-PETITION REVIEW BOARD MEETING OF
THE CITIZENS' AWARENESS NETWORK'S 2.206 PETITION
ON INDIAN POINT 2 (G2000568)

+ + + + +

WEDNESDAY

JANUARY 24, 2001

+ + + + +

ROCKVILLE, MARYLAND

+ + + + +

The meeting came to order at 2:30 p.m. in Room SB10,
11555 Rockville Pike, One White Flint North, John Zwolinski, Chairman,
presiding.

COMMITTEE MEMBERS:

JOHN ZWOLINSKI Chairman

M A R S H A G A M B E R O N I

Section Chief

JACK GOLDBERG Special Counsel

CHRIS GRATTON Petition Manager

PETITIONERS:

MARK JACOBS Westchester Citizen's

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ENCLOSURE 2

	Awareness Network
TIM JUDSON	Citizen's Awareness Network
DEB KATZ	Citizen's Awareness Network
KYLE RABIN	Environmental Advocate, Albany, N.Y.
JIM RICCIO	Public Citizen
JOHN MCCANN	Nuclear Safety Licensing, Con Edison

ALSO PRESENT:

JIM MINNS	DCPM PM
DAN SALTER	HGP, Inc.
BOB CLARK	NRR/PDI-1
PATRICK MILANO	NRR/PDI-1
RAM SUBBARATNAM	NRR/DLPM
PETER ESELGROTH	NRC Region 1
PAUL GUNTER	NIRS
FRED KATZ	CAN
E.G. ADENSAM	NRC/NRR/DCPM/LPD1

PRESENT VIA TELECONFERENCE:

NEIL SHEEHAN	NRC Region 1
DIANE SCRENCI	NRC Region 1

I N D E X

Opening Statement,	
by Chris Gratton, Petition Manager	3
Introduction,	
John Zwolinski, Chairman	5
Presentation of Pettioners,	
Ms. Deb Katz	12
Mr. Mark Jacobs	24
Mr. Jim Riccio	35
Mr. Kyle Rabin	40
Mr. Tim Judson	45
Discussion of Petition	56
Closing Statements	74

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PROCEEDINGS

(2:36 p.m.)

PETITION MANAGER GRATTON: My name is Chris Gratton and I am the Petition Manager for the request that is under consideration today.

I just want to go over a couple of administrative details about the meeting and then we will turn it back over to John.

First of all, there is an attendees list that is going around -- if you could all make sure that you sign it. Also, when speaking, especially the first time, make sure that you identify who you are so that the court reporter can accurately record your names.

There is a feedback form for this public meeting available right over here on this table. If you would like, you can provide feedback. There are instructions on there on who to send it to. You can fill it out and send it back to us.

The petition that you submitted on December 4 is the one that is under consideration today. This is a public process that we're going through, so we would appreciate it if sensitive information is not discussed in this meeting -- sensitive being: regarding proprietary information and safeguards.

What I would like to do now is to turn the meeting over to John for some remarks to open up the process.

CHAIRMAN ZWOLINSKI: Good afternoon. Today is January 24th. It is approximately 2:45. My name is John Zwolinski. I am the Division Director for the Division of Licensing, Project Management in the Office of Nuclear Reactor Regulation. I am the chairperson for this Pre-Petition Review Board meeting.

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1 I would like to open this meeting by providing some
2 background information on this petition and then briefly discuss the petition
3 process before turning the meeting over to our presenters.

4 In your December 4, 2000 petition, you requested that the
5 NRC take a number of actions. The first was to suspend the Indian Point 2
6 license because of negligent management. Secondly, investigate the potential
7 misrepresentation of material fact by the utility. Three, if item two above is
8 found to be fact, revoke the Indian Point 2 license. Four, if a decision is made
9 not to revoke the Indian Point 2 license, then maintain Indian Point 2 on the
10 agency focus list. Five, not approving license transfer request until
11 management deficiencies are analyzed and corrected. And six, keep Indian
12 Point 2 off line until management deficiencies are analyzed and corrected.

13 The staff contacted you to set a date for this meeting. Due
14 to scheduling considerations, this meeting could not be held before today.

15 Because the plant was scheduled to restart before you could
16 meet with the staff, in accordance with the management directive 811, of which
17 we do have copies available for folks that would like to have a hard copy, plus
18 it is on our web site. The staff discussed -- per the management directive on
19 December 20th, the PRB, Petition Review Board, met to consider Item 6 of the
20 petition regarding your request to keep the plant shut down pending the
21 resolution of the alleged management deficiencies.

22 The PRB reviewed your request and found that the
23 information detailed in the petition was not new information and that the issues
24 you had raised had been considered by the Region and did not rise to the level
25 of required enforcement in accordance with the reactor oversight process.

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1 Ms. Katz was informed on December 22, 2000, that the staff
2 would not prevent the restart of Indian Point 2 and that the plant was preparing
3 to restart.

4 The 2.206 petition process permits any person to file a written
5 request for the staff to take enforcement action against a licensee. The written
6 request must provide sufficient grounds for taking the enforcement action. The
7 NRC assigns the request to the appropriate office which forms a petition review
8 board. The PRB determines whether the petition meets the criteria for review
9 under Title 10 of the Code of Federal Regulations of Part 2.206.

10 The purpose of today's meeting is to receive any additional
11 information or clarification you may provide relevant to this petition. Today's
12 meeting participants are the petitioners, the licensee and the NRC staff.
13 Members of the public are also welcome as observers.

14 At this time, I would like to go around the room and have the
15 NRC staff introduce themselves, ask the petitioners to introduce themselves,
16 as well as the licensee and we will move forward.

17 Can we start over on this side with the NRC staff? Speak
18 loudly for the transcriber.

19 MR. BERKOW: My name is Herb Berkow, B-E-R-K-O-W,
20 and I am a member of the Petition Review Board.

21 MR. ESELGROTH: My name is Peter Eselgroth. I am the
22 Project's Branch Chief in the Region 1, NRC Office, for Indian Point 2.

23 MR. SUBBARATNAM: I am Ram Subbaratnam, Agency
24 Coordinator for 2.206 Petitions.

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1 MR. MILANO: Patrick Milano, Project Manager and Project
2 Director of 1.

3 MR. CLARK: Bob Clark, Project Manager, PD-1.

4 MR. GOLDBERG: Jeff Goldberg from the General Counsel's
5 Office at the NRC.

6 CHAIRMAN ZWOLINSKI: Again I am John Zwolinski, the
7 Division Director, Division of Licensing and Project Management.

8 PETITION MANAGER GRATTON: I am Christopher Gratton,
9 the Petition Manager.

10 SECTION CHIEF GAMBERONI: I am Marsha Gamberoni,
11 Section Chief of PD-1.

12 MR. MINNS: John Minns.

13 MS. ADENSAM: Elinor Adensam, Project Director, PD-1.

14 CHAIRMAN ZWOLINSKI: Ms. Katz.

15 MS. KATZ: Okay. I am Deb Katz. I am the Executive
16 Director of Citizen's Awareness Network.

17 MR. JACOBS: Mark Jacobs. I am here with Westchester
18 Citizen's Awareness Network and also with Westchester People's Action
19 Coalition

20 MR. RICCIO: Jim Riccio, with Public Citizen.

21 MR. RABIN: Kyle Rabin, with Environmental Advocates from
22 Albany, New York.

23 CHAIRMAN ZWOLINSKI: What is your last name again,
24 Kyle?

25 MR. RABIN: Rabin, R-A-B-I-N.

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1 MR. JUDSON: My name is Tim Judson. I am from the
2 Central New York Chapter of the Citizen's Awareness Network.

3 CHAIRMAN ZWOLINSKI: Are there any other members?
4 Ms. Katz?

5 MR. KATZ: I am Fred Katz. I am the President of Citizens'
6 Awareness Network.

7 CHAIRMAN ZWOLINSKI: Okay.

8 MR. GUNTER: Paul Gunter, Nuclear Information and
9 Resource Service.

10 CHAIRMAN ZWOLINSKI: And are there members of the
11 public?

12 MS. KATZ: Dave Lochbaum is member --

13 MR. SALTER: I am Dan Salter.

14 CHAIRMAN ZWOLINSKI: As an oversight, I apologize to the
15 Region's staff. Could you introduce yourselves, please?

16 MS. SCRENCI: Diane Screnci from the Public Affairs Office,
17 Region 1.

18 MR SHEEHAN: Neil Sheehan, Public Affairs, Region 1.

19 CHAIRMAN ZWOLINSKI: Thank you Diane and Neil.
20 Anyone else in the Region?

21 MS. SCRENCI: There is no one else here with us.

22 CHAIRMAN ZWOLINSKI: Okay. Just for Ms. Katz and you
23 folks, Diane and Neil work in our Public Affairs Office in the Region 1 offices in
24 King of Prussia. You may have chatted with them before.

25 And from the licensee?

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1 MR. MCCANN: My name is John McCann. I am the
2 Manager Of Nuclear Safety And Licensing for Con Edison.

3 CHAIRMAN ZWOLINSKI: I trust that I have allowed
4 everyone the opportunity to introduce themselves.

5 The NRC staff will listen to any additional information you
6 present, but will not debate the merits of the issues identified in the petition,
7 other than to ask questions for clarification as necessary. The licensee may
8 also ask clarifying questions.

9 To insure the information is accurately received, the meeting
10 is being transcribed. The transcript will be publicly available, and you will be
11 given copies of the transcription.

12 As part of the petition process, petitioners are provided an
13 opportunity to address the PRB to amplify the information provided in their
14 petition and to allow the staff to ask clarifying questions about the petition. The
15 licensee is also invited to participate. This opportunity can be performed in
16 teleconference or like today with a public meeting.

17 Following the PRB meeting which will take place following this
18 meeting, you will be notified verbally or by follow-up letter of whether your
19 petition has been determined to satisfy the criteria for review under 10 CFR
20 2.206. You will then be offered another opportunity to meet with the staff to
21 comment on the PRB's recommendation. The licensee is also invited to that
22 follow-up meeting.

23 Should your petition be accepted under 10 CFR 2.206, the
24 staff will evaluate your petition, including information provided in any public

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1 meetings -- develop a director's decision which will either grant, partially grant
2 or deny your request.

3 You will be kept informed of the review status by the petition
4 manager for this petition, Mr. Gratton. Up-to-date status of pending petitions
5 is also available on the Internet at the NRC home page.

6 Following this meeting, the PRB will convene to consider
7 whether the five remaining requested actions in your petition meet the criteria
8 for 2.206 process and will consider any additional information presented today.

9 Are there any questions with respect to the meeting today?

10 Okay, very good. Then, I'll turn it over to you Ms. Katz.

11 MS. KATZ: I'll try my best.

12 CHAIRMAN ZWOLINSKI: Very good.

13 MS. KATZ: First of all, I want to thank you for giving us this
14 opportunity to talk to you and to have so many people here who are interested
15 in what goes on.

16 A lot of our concerns, in terms of Indian Point, stem from our
17 experience around Northeast Utilities and the systemic mismanagement of the
18 Connecticut reactors. All four of the reactors in Connecticut closed, and were
19 forced to close, by the NRC until they could demonstrate, in fact, compliance
20 with NRC regulations with accuracy with their updated final safety analysis
21 report which, in fact, in Connecticut, the NRC called the living document that
22 allowed operators to run the reactor safely with their technical specifications,
23 their design basis documentation program, retraining of workers, and they
24 addressed the chilled atmosphere that existed at the reactors.

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1 Until all of that got done, those reactors could not come back.
2 NRC acted proactively to close those reactors and Millstone was down for two
3 years. In fact, two of the reactors, Connecticut Yankee and Millstone 1, never
4 came back on line. Part of it was economics, but it was also systemic
5 mismanagement, in which, at Haddam Neck, some of the backup safety
6 systems had never worked properly for 27 years, and it was only figured out
7 after the reactor shut down.

8 This was of great concern to all of us, and people in
9 Connecticut, and what was really important as well in this is that Northeast
10 Utilities, whether it was pretense or not, actually acknowledged wrongdoing and
11 culpability.

12 And they brought in consultants to help them. They had
13 Stone and Webster. They had Little Harbor for years working with them to get
14 themselves back in order. In fact, although we may not have agreed at the
15 point that restart took place, there was substantial compliance that took place
16 before those reactors came back on line.

17 There are differences that we see in this situation which
18 greatly concern us. We experience IP- 2 as a troubled reactor. And we see
19 in the analysis
20 -- we, in fact, had submitted a 2.206 petition to you on the systemic
21 mismanagement of all four Connecticut reactors, a petition that actually went
22 on for four years to finally go through the process -- in which, in fact, NRC
23 found major problems with Northeast Utilities.

24 What we saw in terms of Indian Point 2 were similar problems
25 that really concerned us in terms of a chilled work force, in terms of inaccuracy,

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1 in the living document, the updated final safety analysis report, technical
2 specification problems, problems with worker training. All the same issues
3 were flagging again.

4 There were two differences in this. One was that NRC, we
5 do not experience as acting proactively in this in the same way in which the
6 focus seemed to be far more on the steam generator replacement and not
7 taking on the systemic mismanagement issue.

8 Con Ed was repeatedly cited over the years for not following
9 NRC regulations but was never fined during this time. There is a way in which
10 we are concerned that they do not take this seriously.

11 In a certain way, what this has led to, as it did in Connecticut
12 for years -- and I am sure you guys remember -- was a crisis in confidence in
13 the NRC -- one that has still not been repaired. I mean in New York at this
14 point people do not trust the NRC that they are going to protect them, and in
15 Connecticut they do not believe that at this point, and in Vermont they do not
16 believe that. That has been our experience in the Northeast, and it is tragic.

17 I mean that is your job, and the people who you are supposed
18 to protect do not believe there is anyone who is going to protect them at this
19 point. That's part of what this petition is about -- is bringing this issue to radar
20 to have it addressed because we do not know how else to get through. We just
21 do not know how to do it.

22 The most dangerous thing to us in this, besides the loss of
23 confidence, is that Con Edison admits no wrongdoing. They do not seem to
24 understand there are real problems with the reactor, that there are real

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1 problems with management, and this is really dangerous and of great concern
2 to us in terms of it. So, that is what our petition addressed in part.

3 What we want to present today in addition to the petition is
4 new information, and what we want to provide to the NRC are condition reports
5 from Indian Point 2. These internal documents were supplied to us by a
6 number of whistle blowers that work at IP-2 who are concerned with Con
7 Edison's management style and the weaknesses and the chilled atmosphere.
8 We have copies here of those condition reports that we want to turn over to
9 you.

10 What we also have is -- we turned these documents over to
11 David Lochbaum to analyze for us. So we have his analysis. We have made
12 a lot of copies of this so all of you guys could have them. This was very big
13 and very complicated to copy. So you have got one copy, and we will leave the
14 copying to you on that. But you can in fact take a look at this, at this point, as
15 Mark goes through because Mark will be presenting some of the information
16 that David dealt with in terms of what was in the condition reports.

17
18 CHAIRMAN ZWOLINSKI: Ms. Katz, as an administrative
19 issue, that product would be appended to the transcription of this meeting.

20 MS. KATZ: Yes.

21 CHAIRMAN ZWOLINSKI: So, I presume it would not have
22 sensitive --

23 MS. KATZ: No, it does not. As far as we can tell, it does not
24 have that. We are also going to submit information in terms of -- we are
25 actually in a hearing on the sale of IP-3 to FitzPatrick -- to Entergy in which

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1 there were certain financial concerns that came up in that that we wanted to
2 submit to you as well in terms of struggles that Entergy might have in terms of
3 buying a systemically mismanaged reactor. So we wanted to turn that over to
4 you. These are redacted so there is no problem in terms of putting them
5 together.

6 So, what we want to present here in support of our petition
7 and address through the condition reports are the weaknesses in Con Ed's
8 management style, the chilled work environment, the lack of maintenance, the
9 not following NRC regulations and the failure to meet commitments.

10 What I want to do and what I will just lay out is who is going
11 to present what. Because I am going to present certain things from the
12 condition reports, and then Mark is going to go over Dave Lochbaum's
13 analysis, which comes from the condition reports.

14 Jim Riccio is going to talk about internal NRC documents in
15 terms of the pressure that workers are experiencing. Kyle Rabin is going to
16 talk about issues in terms of finances and deregulation. And Tim Judson is
17 going to end on the note of sale and the dangers of sale.

18 So that what I just want to do is talk about certain of the
19 condition reports. Because these were turned over to us by a number of
20 workers who were really concerned about what is happening with how Con
21 Edison is doing its job and how the workers are concerned about this process.

22 So, what I am just going to do --

23 Con Edison, on December 25, had in fact a water hammer.
24 What it says here is, "I talked to the MPO who wrote the CR and he said the

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1 entire east header moved. It was loud enough to scare individuals working on
2 53 feet.

3 As a result of this water hammer, the header moved and
4 struck a hand wheel on the drain valve of one of the HP dumps and a CR was
5 written as well.

6 I am going to try and find the other CR. I asked the MPO if
7 anyone had talked to him about this condition report and he said," and this is
8 in large letters, "NO." The original CR did not describe the event in this nature.
9 Rather it noted that we had a water hammer event -- no severity noted -- and
10 that perhaps some asbestos left in a few areas.

11 The screening committee closed the CR to track and trend
12 and asked that the asbestos cleanup be investigated. With the new information
13 now available, it would be prudent to try to figure out what caused the water
14 hammer. Obviously, this was a larger water hammer than described on the
15 original CR. Suggest evaluation."

16 I mean, what we are focused on is not so much that they had
17 a water hammer, but it is the kind of judgment that is being used in terms of
18 analyzing and looking at the issue that is of concern to us -- that Con Ed may
19 think they are doing a good job, but we are concerned that that is not what is
20 taking place in this.

21 So, what we also have is -- this took place in October -- "An
22 untrained, unqualified chemistry technician was assigned to restart and make
23 operational the old Dionex Series 8200 online analyzer -- monitors the CPD
24 HPPW in the form of WTP for ionic impurities. A new online analyzer is

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1 awaiting installation. There is no X in this individual's chemistry technician
2 qualification matrix box for this task.

3 A second untrained and unqualified chemistry technician, who
4 is not even listed on the qualification matrix and is not qualified on a single task,
5 caused the condensate salinity high alarm in the CCR to alarm reportedly while
6 he was working on it alone."

7 What we have is also -- in terms of an analysis in terms of the
8 corrective actions program and the fact that many, many corrective actions,
9 which Mark will go into -- but what they did was an analysis of the corrective
10 actions program in which, out of 53 corrective action reports that were closed
11 out, eight were completely unacceptable and 24 had major weaknesses, which
12 means that almost two-thirds of the corrective action reports were close to
13 unacceptable
14 -- which is of great concern, since it is the corrective actions program, and it is
15 that whole process, that, in fact, keeps the reactor safe and keeps everything
16 operating appropriately.

17 I now want to read from the second report we have which is
18 actually about the chilled atmosphere. This is part of what you are getting.

19 "I recently received an email from the electrical design
20 engineer manager transmitted to the corrective action group manager, with me
21 and several senior plant managers on courtesy copy, criticizing my findings in
22 CRS 2000-5173.

23 The transmittal was caustic and contained language that
24 could discourage a questioning attitude and a willingness to document

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1 problems. That transmittal and two related documents as follows are
2 attached."

3 From a 10/27 email which was sent from the EDE manager
4 to the CAG manager, the text of the SL2 narrative prepared by E.D. on August
5 29, 2000 and a proposed revision of the SL2 narrative attached to the 10/27
6 email. "At issue in the CRS was whether a set point change for the gas
7 turbines had been performed as there was no documented evidence of it in the
8 work control process and the field personnel believe the set point change had
9 not been performed.

10 The manager, however, ignored the issue and stated, 'The
11 condition listed in the CR is not accurate.' The real issue as I see it is the lack
12 of appropriate review by the originator of the CR. I do not want to take any
13 more of this section's time addressing this nonissue. And my recommendation
14 is that this be assigned to the section that the CR originator is assigned.

15 Subsequent investigation has shown that the original issue
16 described in the CR to be valid. However, that is not the issue of concern in
17 the CR. The concern is not technical. The concern is that the plant
18 management responded to a CRS originator in a way that makes him appear
19 to be inept and insisted that he take the issue back and perform the test to
20 erase the problem.

21 As previously noted, the email was sent to other senior plant
22 managers. This action serves to dampen the questioning attitude that WE," in
23 capital letters, "are trying to cultivate here at IP-2.

24 Unfortunately, this is not the first episode of criticism of a
25 problem identification by an influential senior, supervisory or managerial

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1 personnel that I have witnessed. I am generating this condition report to
2 formally document this as another incident of an adverse cultural attribute that
3 is known throughout the industry at troubled plants as a chilling effect."

4 Now I am just going to mention two things in terms of
5 contamination, and then I am going to turn it over to Mark.

6 One was that "a group of visitors entered the 95-foot VC
7 clean areas for 15 minutes. When the visitors came back to HP1, they
8 informed me that one had lost his Merlin Gerlin and another visitor's Merlin
9 Gerlin was periodically alarming and showing that he had picked up 13
10 millirem."

11 And there is actually another CR on a worker in which they
12 talk about having hot particles on his clothing -- on a jacket that he was wearing
13 -- that were 30,000 counts per minute. The jacket had been left on a desk in
14 an office. He had not worn it in the hot section.

15 And what they end with, "This is the fourth particle that has
16 been detected at the common post as reported in certain CRs," and they listed
17 them before. So we have a concern about hot particles on the site and them
18 leaving the hot side and being on the clean side and the potential for migration
19 off site -- because hot particles, as we know, are very difficult to find. They are
20 not easy.

21 We had seen at Yankee Rowe, in fact, during the underwater
22 cutting of the baffle, large amounts of hot particles being given off that may
23 have migrated off site. So this is a concern in terms of radiological control.
24 This is some of what is in here. There is a lot more.

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1 We are turning this over to you because we feel that the
2 workers have turned to us because they expect that we are going to turn this
3 information over to you, and they do not believe that Con Edison is going to
4 listen to them at this point in terms of these issues -- and that they are
5 concerned that Con Edison lacks the judgment to actually decide what is safe
6 and what is not and what is a good job and what is not, at this point, and that
7 is what our concern is in terms of this.

8 Now, Mark is going to talk about the corrective actions part.

9 CHAIRMAN ZWOLINSKI: Excuse me -- an administrative
10 issue, Ms. Katz -- the material you are reading from as well as those additional,
11 you are going to provide those to Agency?

12 MS. KATZ: I am giving them to you right now.

13 CHAIRMAN ZWOLINSKI: Okay. Very good.

14 MR. JACOBS: My name is Mark Jacobs, representing
15 Westchester Citizen's Awareness Network and also Westchester People's
16 Action Coalition, one of the petitioners on this 2.206 petition.

17 One of the things preliminarily I would just like to say -- to be
18 clear about is that the reason that you stated that Item 6 -- or one of the main
19 reasons that Item 6 was not accepted and denied
20 -- was as a result of the argument that no new information was being
21 presented, since the original 2.206 petition predominately draws upon NRC's
22 own documents.

23 Today, certainly this petition as a whole could not be denied
24 for this reason after the detailed evidence that we are presenting today. The
25 CRs, the condition reports, which are internal Con Edison documents is not

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1 information which is completely reviewed by the Nuclear Regulatory
2 Commission on a regular basis.

3 So that -- although, obviously, you will review the petition and
4 make decisions based upon some criteria -- it would certainly seem that the
5 criteria of new information is no longer relevant in terms of the approval or
6 dismissal of the petition.

7 I want to thank you for having us here today.

8 Also, one of the things at issue is that
9 -- I am from the reactor area -- I live within five miles of the Indian Point Nuclear
10 Power Plants and there is a whole group of citizens who are upset that they are
11 not able to be involved at this stage in the petition process by not being able to
12 be here at this public meeting. They feel that this meeting, appropriately held,
13 would have been held in the community surrounding the reactor -- and that it
14 is not acceptable, even though this is not a meeting that is requesting public
15 input, it is simply requesting more information on an already presented petition,
16 that citizens in the community should be encouraged, not only able, but
17 encouraged to be able to get this information first hand and they are not able
18 to do that.

19 Secondly, when I had spoken with the office of Chairman
20 Meserve, I had talked to somebody about providing some reimbursement for
21 people traveling down here today. I would like you to note that we have five
22 presenters and that most of them come from New York or further away and that
23 it would be our hope that -- since, as I can understand it, the primary reason for
24 your not holding this meeting in the nuclear reactor community has to do with
25 the difficulty and the expense of bringing all of the NRC staff in this room up to

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1 that meeting -- that you would certainly honor the reimbursement request we
2 are going to make for the travel expenses of all the people who came down
3 here for this meeting.

4 I would like you to turn your attention to the one-page, front-
5 back, document that comes from the Union of Concerned Scientists which
6 presents Dave Lochbaum's analysis of one of the sets of CRs that there is only
7 one copy of.

8 The CRs suggest systemic problems at the plant, and I want
9 to call your attention to some specific CRs and put on the record those
10 numbers and the issues they raise so that you are not looking simply at these
11 more than a hundred pages of documents without some direction. We are
12 trying to provide you with direction while at the same time giving you all of the
13 information we have so that you can do your own analyses.

14 These documents suggest a series of problems with Con
15 Edison's handling operating of the nuclear power. One of them has to do with
16 failed commitments. As you are aware, in August of 1999, there was the most
17 severe ever alert at Indian Point 2 that took place with the electrical problems.
18 And after that, there were some commitments that Con Edison made to making
19 changes at the plant in order to insure safety.

20 One of the things that we find quite disturbing in these CRs
21 is a series of them in which Con Edison employees are stating on the record --
22 their own internal record -- that they are not able to document that these
23 commitments have been honored.

24 You will find that in documents 2001-00 and that is the
25 common part of the number. So, in order to not say a mouthful each time, they

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1 are all beginning 2001-00 and then the three-digit number at the end will be
2 different. So, referring to 287, 288, 289, 290 and 304, these are all different
3 commitments that they have not been able to determine have been honored --
4 that Con Edison had agreed to make.

5 A second type of problem that these CRs bring out is that
6 CRs raise difficulties at the plant, problems at the plant and they need to be
7 closed out. A CR is considered open until the issues raised have been
8 resolved. Unfortunately, according to a number of CRs, Con Edison is
9 improperly closing them out. That is, they are closing them out before the
10 issues raised have been sufficiently resolved.

11 An example is number 292. This is a CR that involves safety
12 analyses for transients such as loss of feed water heating. The inference from
13 this CR is that the safety analysis contains errors and omissions.

14 We have a similar issue raised by the CR 295. And, if you
15 listen to the tone -- I am not going to read to you from any other CR except this
16 one -- I think it is very important to hear the tone of how this is written and what
17 the workers are telling us by the way that they are expressing themselves on
18 this issue. This is now number 295. I am quoting all of this from it.

19 "This CR is being written to address two failures. One, the
20 original concern was not addressed. Two, closing out CRs prior to corrective
21 action implementation is a recipe for disaster and diminishes workers' respect
22 for the system. To repeat the original concern," now the reporter switches all
23 to capital letters, "WHEN CONTAINMENT INTEGRITY IS REQUIRED AND
24 ENTRIES MUST BE MADE INTO THE VC --" I assume that is vacuum
25 containment.

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1 CHAIRMAN ZWOLINSKI: Vapor containment.

2 MR. JACOBS: Vapor containment. "IF THE 95 AIRLOCK
3 MUST BE USED IN AN EMERGENCY BY THE ENTRY PARTY, THERE IS NO
4 ONE QUALIFIED TO DO SO. THIS IS A TRAINING AND QUALIFICATION
5 ON OPERATING EQUIPMENT ISSUE."

6 Now no longer caps -- still quoting, "Number One, responses
7 to the original CR varied from how many people can inhabit the VC, how many
8 people can fit through a 31-inch door, lighted exit signs, blah, blah, blah." I am
9 still quoting, "Not relevant. The only response that marginally addressed this
10 issue came from the station safety administrator.

11 SAO 219 was to be revised to have a formal documented
12 pre-job brief included, with an in-field demonstration of airlock operation if
13 requested by the entry party. To date, SAO 219 has not been updated. And
14 we all know that, at three in the morning, an in-field demonstration ain't
15 happening.

16 Two, a CR should never be closed out prior to implementation
17 of corrective actions. A containment entry was made on 1/5 to prep for
18 Congresswoman Sue Kelly's visit. At the pre-job ALARA brief, I was asked if
19 I was able to operate an air lock. My response was, 'No.' The issue of this CR
20 came up. Present at this briefing were senior management. The issue was
21 skirted when someone said that instructions for operating were attached to the
22 95 air lock."

23 Still quoting. "Okay, I'll bite. Went into VC and proceeded
24 to the 95 air lock. No instructions. No kidding. Upon exit, I was told they were
25 inside the air lock. Gee, thanks. Closing out identified problems without

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1 correction not only can have immediate ramifications, it can set up unknowing
2 personnel for future harm."

3 You will find other CRs with similar tone. But I think it is
4 important that you understand that this is not dispassionately being presented.
5 This is being presented because of serious concern for the safety, their own
6 safety, of the workers at the plant.

7 You will find similar examples of improper CR closeouts in CR
8 ending in 303, also ending in 357, also ending in 306.

9 To summarize the issue of improper CR closeouts, I am
10 going to refer back to a CR which ends 335. This is a CR that Ms. Katz made
11 reference to, and it talks about the percentage of CRs inappropriately closed
12 out. It says, according to this CR, eight of 53 CRs reviewed had been
13 determined to have been closed out on an unacceptable basis. That
14 percentage, 15 percent, applied to the 5,482 CRs written at least during 2000
15 suggests that Con Ed improperly closed over 800 CRs last year alone.

16 Once again, Con Ed's corrective process seems to be badly
17 flawed. My third out of four points that deal with what these CRs are pointing
18 out to us about the way Con Ed is not operating the plant properly has to do
19 with the way there are conflicts with the updated final safety analysis report and
20 a number of CRs point to this. In other words, many of them.

21 What we are finding is that the plant is not operating within
22 its design basis, and that is a serious problem. An example of this is number
23 376. According to this CR, the current operation of the chemical and volume
24 control system conflicts with the systems design as described in the USFAR
25 because some installed equipment is no longer used.

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1 The demand for information sent to Con Ed in October 1996
2 elicited a response claiming that Con Ed had adequate assurance that IP-2's
3 operation was within its design bases. This CR and some others I will cite
4 indicate otherwise.

5 Another very troubling example of this is number 327.
6 According to this CR, numerous discrepancies between as-built wiring for the
7 reactor protection systems and the system design have been discovered.

8 According to the CR, quote, "Resolution of discrepancies
9 between as-found plant conditions and design drawings have often been
10 resolved by revising drawing to match the as-found plant condition. These
11 design changes by default have been made without the required quality
12 assurance requirements such as design verification or insuring preservation of
13 the licensing basis through a documents safety valuation." End quote.

14 This CR suggests a safety problem affecting the reactor
15 protection system. This CR, however, suggests an even larger safety issue is
16 discrepancies between the plant and its design bases are being resolved using
17 a process that circumvents the legally established process. This would suggest
18 that Con Edison should sample drawings -- changes for several of their safety
19 systems, at a minimum, if not reanalyzing all of the sample drawings --
20 changes.

21 Some other CRs that indicate noncompliance with the final
22 safety analysis report are numbers 378. It says, "UFSAR contains inaccurate
23 information." I am just going to quote the little pieces of it. You can refer and
24 check it yourselves.

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1 Number 337, "The evacuation plan procedure is inconsistent
2 with descriptions in the UFSAR." Number 348 -- these are all quotes --
3 "Technical differences between the calculation bases and the UFSAR." And
4 number 351, "Calculation found to contain technical discrepancies and omitted
5 reference to applicable data contained in the UFSAR."

6 So, those are all numerous examples of how Con Edison is
7 not in compliance currently with its design bases.

8 The last point, and it is a short one, is that Con Edison is
9 making decisions regarding the safety concerns brought up by employees at
10 the plant without bases. An example of that is in the CR ending in 336.

11 According to the CR, "Operability determination conclusions
12 often have no supporting basis." Operability determinations are prepared to
13 justify continued operation of the reactor with degraded equipment or
14 potentially degraded equipment. Thus, inadequate operability determinations
15 provide a direct immediate threat to safety that cannot be tolerated.

16 So, this is somewhat of a summary of what you will find in
17 one piece of these documents. Now, I would very strongly encourage you not
18 just to read those -- most of us are laymen and our ability to analyze these
19 documents is not going to be as good as your ability to do so. So, if you would
20 go through these with a fine tooth comb, you are going to find even more
21 examples of how Con Edison is systemically mismanaging this plant.

22 Thank you.

23 MS. KATZ: I just was going to give you the numbers on the
24 ones that I read from because I think that your suggestion is very good. In
25 terms of the untrained chemistry technicians, that was 2001-00-317. The water

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1 hammer, I think -- Did you mention that number? -- I will do it again, 2001-00-
2 383. In terms of the errors in terms of closing out CRs, it was 2001-00-335.
3 The chilled work atmosphere was 2000-00-8415, and in terms of the hot
4 particles, it was 2000-00-9188. And there was one more in terms of
5 contamination, 2000-00-8449.

6 MR. RICCIO: Just to add a little bit to what Mark has said,
7 the head of Con Edison swore under oath or affirmation -- Sorry, this is Jim
8 Riccio. The head of Con Edison signed under oath or affirmation that they had
9 systems in place to insure that precisely what these folks have been reading
10 to you would not occur.

11 Now, I don't know whether or not the head of Con Edison
12 knows about these. So I cannot say that basically his statement to the NRC
13 was in error, but it should be looked into. Basically, this man has sworn to you
14 that he was going to, basically, get their act together, and he has not.

15 As you all -- this stems back again from the Millstone
16 debacle. We have continually maintained that we did not feel that the NRC
17 was doing enough to make sure that the licensing basis was maintained, and
18 I believe the evidence that these folks have presented to you goes a long way
19 in furthering that claim.

20 What I have here to present to you today is the event
21 response team report from the January 2 event. It basically confirms a lot of
22 the things that they have already told you. The part that is so disturbing to me
23 -- and, I am not saying that, had the NRC gone in and done the inspection prior
24 to restart, they would have caught all the problems that resulted in the
25 shutdown -- not the shutdown, but, pardon me, the power down -- but, perhaps

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1 they would have, and we could have avoided this, had NRC done its inspection
2 prior to restart, not two weeks in. And the part of this most disturbing to me is
3 -- hopefully, you guys have this already, and if not it is available on my website
4 at www.citizen.org.

5 MS. KATZ: Do you have the number for the document?

6 MR. RICCIO: There is no number on the document. They
7 could also get it from the utility.

8 The part of this most disturbing to me is the contributing
9 factor for the underlying event, and, basically, there is a theme that runs
10 through this, "a less than adequate questioning attitude regarding the low main
11 boiler feed pump section."

12 I will not read the whole thing to you, but, basically,
13 throughout most of it, it is a less than questioning attitude, less than adequate
14 procedures, procedural conflicts. The part I find most disturbing is that
15 pressure to perform on restoring the unit to service may have led the operators
16 to reduce their questioning attitude and made them more than willing to accept
17 less than adequate plant conditions during startup.

18 Now another concern is, we are not even sure that this is
19 going to be captured by your oversight process. Which may seem to indicate
20 that your oversight process may be aiming too high.

21 A further explanation of that contributing factor number four
22 is also extremely disturbing. Part of the event was exacerbated by, basically,
23 an overflow of the steam generator. The day prior to the event, three reactor
24 operators determined who would be in the position of the operator at the
25 controls, steam generator level control, and balance of plant operator. On the

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1 day of the event, the operator designated for steam generator level requested
2 a pre-job briefing be performed.

3 Seemingly reasonable. Here is a worker trying to be
4 conscientious, making sure he knows what to do prior to firing this thing up.
5 The operator designated for steam generator control was replaced with an
6 operator with more experience and the pre-job briefing never occurred.

7 So, here is a man who is asking for instructions from his
8 management on how to do the job properly. Rather than do that, rather than
9 waste the time during startup to brief the worker properly, they remove him,
10 place someone in with more experience. That person with more experience is
11 the one who overfilled the steam generator.

12 It is evident from the condition reports that have basically not
13 been addressed -- there is a lot more in here again that I think the NRC should
14 take a look at. I would be happy to provide you with this copy. But for those
15 of you who are not with us, you can also get it off the website.

16 Our concerns are made even graver because of the way this
17 has come about. Our confidence in the NRC to be a fair arbiter in this has
18 been thoroughly undermined. It goes back not only to the battery drain-down
19 event and the fact that nothing has been done since then, but really also the
20 fact that it was both the people at Con Ed and the NRC that signed off on the
21 license amendment on the steam generator that eventually burst -- and neither
22 of them bothered to look at the underlying data to see whether or not that
23 license amendment was warranted.

24 Whether the Commission wants to acknowledge it or not,
25 they have a problem on their hands in New York. I am afraid -- I know Mr.

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1 Meserve has been making visits to some of the representatives from the state,
2 but the fact is, you have thoroughly undermined public confidence, which is one
3 of the cornerstones of this agency, by basically a rush to get this reactor back
4 on line.

5 And, at that point, I would like to turn it over to Kyle to
6 continue.

7 CHAIRMAN ZWOLINSKI: Just one second, Kyle. Jim, for
8 clarification, so I am working with the right amendments that you referred to --

9 MR. RICCIO: It was the waiver of the inspection. I know the
10 burst did not occur in the waiver period. But the waiver of the inspection has
11 done an immense amount of harm to public confidence and obviously the
12 confidence of the workers as well seemingly. It does not matter how good your
13 detection techniques are, if you are not going to look at the underlying data
14 before you waive inspections.

15 I know that there is a discrepancy between how the agency
16 views the significance of steam generators and the way the public views the
17 significance. I guess we still have to wait for the differing professional opinions
18 to be resolved before we actually have a common understanding of that
19 significance. But the fact that you can basically be bursting steam generator
20 tubes 24 miles from Manhattan does not instill a great amount of confidence in
21 the agency or the industry, for that matter.

22 CHAIRMAN ZWOLINSKI: I just wanted to be sure I was on
23 the same wavelength. Thank you.

24 MR. RABIN: Kyle Rabin with Environmental Advocates
25 based in Albany, New York. My area of focus at Environmental Advocates is

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1 Energy Policy. That includes nuclear safety matters. We are one of the
2 petitioners here today. I want to thank you for the opportunity to discuss some
3 of these concerns we have raised in the petition, in person.

4 I want to just reiterate a point that Mark Jacobs made earlier,
5 that these types of meetings we feel should be held in the community to afford
6 residents of the reactor host community the ability to hear some of the issues
7 that are being put forth regarding the systemic mismanagement at Indian Point
8 2.

9 Also, if I understand right, in an early conference call that was
10 related to this petition, it was offered that traveling fees may be covered for four
11 or five individuals and that was changed to one individual is my understanding.
12 I think it is important that we did make an effort to come down here. I
13 understand that you are avoiding -- mitigating some of the costs by not having
14 to travel to the reactor host community. At the same time we made an expense
15 to travel down here today.

16 My focus today here will be related to concerns that a number
17 of groups have had about energy deregulation and impacts on nuclear safety.
18 In particular, I am going to focus on a document that we gave to you with the
19 petition. It was a document dated, October 16, 1997. It was a Con Ed internal
20 financial document. I do not have copies of that here, but I understand we did
21 deliver that to you.

22 According to an October 16, 1997 internal planning
23 document, titled, "Indian Point 2 Financial Analysis," Con Edison financial
24 planners concluded that replacing the reactor's four Westinghouse Model 44

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1 Steam Generators in a timely manner was the cheapest option for customers
2 and shareholders.

3 Their analysis noted that the generators were deteriorating,
4 a common occurrence with Westinghouse 44 Steam Generators, limiting how
5 much electricity they could produce. And if the W-44 generators were not
6 replaced, they would require increased inspections, thereby reducing the
7 number of days the plant could run, according to the planners' document.

8 However, Con Edison's upper management rejected the
9 financial planners' recommendations and chose not to replace the steam
10 generators because the licensee was uncertain whether replacement was a
11 good financial decision in the deregulated market that was developing.

12 Petitioners believe this decision to delay replacement of the
13 deteriorating steam generators demonstrates Con Edison's choice to value
14 revenue over the health and safety of the public and plant personnel. This
15 conflict of interest between a licensee's financial concerns and its nuclear
16 safety ethic requires an NRC investigation to determine its impact on safety
17 and regulatory compliance at the Indian Point 2 reactor and whether Con
18 Edison willfully violated NRC regulatory requirements. This information raises
19 generic concerns about the potential for compromised health and safety in a
20 deregulated electric utility market.

21 The Con Edison analysis compared three options for the
22 reactor: Replacing the steam generators and running the plant until its license
23 expires in 2013. Not replacing the generators and running the plant until 2013,
24 but at a lower power level and with an extra shutdown every year for

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1 inspections averaging about 30 to 36 days. And the third option, retiring the
2 station in 1999 or 2001.

3 The first option was judged the least expensive. Con Edison
4 projected that replacing the steam generators would cost \$121 million, not
5 including the cost of the equipment itself. The licensee figured that the cost of
6 running the station until license expiration in 2013 was about \$1.5 billion.
7 Shutting it down temporarily in 1999 would cost \$59 million more, including
8 replacement power costs. Replacing the steam generators would ultimately
9 save \$85 million.

10 However, Con Edison's October 1997 analysis pointed out
11 that these projections were highly sensitive to the price of electricity and that
12 postponing a decision would give the company an opportunity to refine its
13 estimates as New York State made the transition to a deregulated electricity
14 market.

15 In an interview with the *New York Times* --and I am referring
16 to an article dated, June 30, 2000, by Matt Wald -- in an interview with the *New*
17 *York Times*, regarding the October 1997 analysis, Con Edison vice president
18 Steven Quinn said that the benefit projected for replacing the steam
19 generators, \$85 million over 14 years, was too small to justify the financial risk
20 because "the uncertainty on the assumptions was large."

21 Among the uncertainties of greatest concern was the future
22 market price for electricity. According to King Luk, a Section Manager in Con
23 Edison's Generation Planning Department and one of the authors of the 1997
24 document, the problem was that the financial projections were highly sensitive

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1 to electricity prices and that no one knew how these prices would run in a
2 deregulated market.

3 So ultimately, we see a company making a decision just
4 because of some concern about future market rates that ultimately affected
5 public health and safety of the nearby community.

6 We just want to reiterate that these are concerns that
7 obviously affect reactors throughout the country, and we hope the NRC will
8 look into these issues more. In New York State, we have several agencies that
9 rely on you for safety determinations. We have made arguments before the
10 Public Service Commission of New York State that safety issues need to be
11 addressed before they force the divestiture of nuclear power plants and expose
12 nuclear power to market competition. When we raise these safety concerns,
13 they point to you guys, and we want you to hold up your end.

14 That concludes my statement.

15 MR. JUDSON: Okay. Well, my name is Tim Judson. I am
16 with the Central New York Chapter of the Citizen's Awareness Network. I
17 participated in producing the petition that we submitted. I have also been one
18 of CAN's representatives in the license transfer hearing for Indian Point 3 and
19 FitzPatrick, which are being transferred, or are proposed to be transferred to
20 Entergy who is also proposing to buy and take over Indian Point 2.

21 I have been asked to talk about one of the requests that we
22 put in the petition, which was that the license for Indian Point 2 be modified to
23 prohibit Con Ed from transferring the license to another company -- at this
24 point, Entergy -- until the reactor has been brought within regulatory
25 compliance and is able to operate safely.

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1 Now, we put a lot of requests in this petition. There were a
2 number of things that we put out there. We think that there is a number of
3 things that the NRC has the option -- the opportunity to do to address this
4 situation. What I wanted to explain
5 -- because I believe this is probably the first time this has come up in a Petition
6 2.206, is the issue of modifying the license to prohibit transfer.

7 We believe that this is a critical time for the NRC to be
8 looking at this very issue, because, right now, I am sure we are all aware that
9 the industry is changing at a pace and in a way that is completely
10 unprecedented in the industry's history. There has been a number of
11 regulatory struggles that the NRC is trying to work out in terms of how to deal
12 with this. Those are coming up in our hearing over Indian Point 3 and
13 FitzPatrick.

14 But, we believe that this situation right here raises a concern
15 about what is the appropriate forum to deal with the question of a license
16 transfer in terms of, especially, an agency-focused reactor which is as far out
17 of compliance as Indian Point 2 is. We believe that the appropriate place for
18 this is actually through the Petition 2.206, and I will go into this a little bit more
19 later.

20 What I wanted to begin by saying, in terms of why we
21 requested this, is that we believe -- probably beginning back before the August
22 31 event in 1999, the Level IV emergency, and at the time of the steam
23 generator tube rupture in February and through this entire process of the last
24 eight months -- there has basically been a white elephant in the middle of this

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1 proceeding, or in the middle of this process.

2
3 That has not been acknowledged, which is the fact that Con
4 Edison made the determination before either of the events that occurred
5 happened that they were going to try to sell the reactor -- and that this
6 determination was made as a result of deregulation in New York State. Kyle
7 talked a little bit about that.

8 Essentially, we think that there is a case to be made in terms of this --
9 especially in terms of the analysis that Kyle laid out -- that Con Edison's
10 unwillingness to take responsibility for staying in regulatory compliance and
11 operating Indian Point 2 safely is because they see themselves getting out of
12 this business and being able to transfer the liability of this reactor to another
13 company.

14 Whether Entergy is willing at this point, even after having
15 seen all the things that have been going wrong, to still take on that project, the
16 NRC still has a role in this, to be able to say no to what is going on. We believe
17 also that NRC action to stop the transfer is the only way to get Con Ed to take
18 safety seriously at this point and to bring the reactor back under regulatory
19 compliance.

20 This is an argument that we are making on the basis of the
21 NRC's regulatory responsibility and authority, rather than -- and we've actually
22 got information that I am going to introduce at this point -- but there are
23 basically three reasons why we think that this is fundamentally important.

24 For one thing, in terms of transferring the license, Indian
25 Point 2 is too far out of its licensing and design bases at this point and the

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1 licensing documentation is too inaccurate to justify a transfer at this point. In
2 fact, Con Edison is essentially asking the NRC for permission to transfer this
3 reactor, which they have put into trouble, which the NRC acknowledges as a
4 troubled reactor as an agency-focused plant, to another company to take on
5 the responsibility.

6 Now, licensing the reactor to Con Edison was a privilege that
7 the NRC granted to Con Edison on the basis of a lot of the things, particularly,
8 which Jim pointed out, but also we believe that getting out of the responsibility
9 of a license is a privilege that the NRC grants.

10 This is laid out very clearly in terms of the process of license
11 termination at the end of decommission. We believe that the current situation
12 of license transfer is something that was unpremeditated at the time that those
13 regulations were put into place and that this is actually a privilege that Con
14 Edison is asking for the NRC to honor and to grant them -- as well as a
15 privilege by Entergy to take on the reactor.

16 Now, at this point, in terms of the licensing and design bases,
17 there is no telling what state this reactor is in at this point. What we laid out --
18 based on these condition reports -- there have been changes made to the
19 UFSAR on the basis of copying the design of what is there. At this point, it is
20 not clear what has been changed from what was in the original UFSAR
21 -- to know whether the reactor is actually in compliance with its technical
22 specifications and its design basis.

23 This is really serious if Entergy is going to be taking over a
24 plant or if a new company is going to be taking over running this thing. Also,
25 we believe that on the basis of the violations that have occurred and the way

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1 that Con Edison has been running this reactor, that Con Edison has not earned
2 the privilege to be able to transfer its liability to another operator.

3 There are a number of options that are open to Con Edison
4 at this point. In fact, when AmerGen cut the deal to purchase the Clinton
5 Reactor -- take over the Clinton Reactor from Illinova in Illinois, that reactor
6 was also shut down by the NRC for safety problems. In fact, PECO agreed, as
7 part of the conditions of the deal, to pay the expenses for bringing the reactor
8 back in compliance and getting back on line before the sale was completed.
9 In fact, the deal was basically conditioned on the reactor becoming safe
10 enough to operate and within the NRC's regulations.

11 We believe that, if Entergy is really committed to running this
12 reactor and doing it safely, that this is an option that is open to Con Ed and
13 Entergy at this point. So the NRC's action does not prohibit a sale from
14 happening. It just insures that the reactor is in compliance with regulations
15 before it is turned over. We think this is fundamental to the future safe
16 operation of Indian Point 2.

17 The second reason why we think this is important is that the
18 NRC's procedure for reviewing license transfer applications is completely
19 unequipped to take on the questions that are posed by Indian Point 2 at this
20 point, which is the transfer of an agency-focused reactor to a new entity which
21 is not an electric utility with the ability to go back to ratepayers and recover its
22 costs for an extended outage or for bringing the reactor back into compliance.

23 For instance, Entergy, at this point, in their cost estimates for
24 Indian Point 3 and FitzPatrick is estimating operating costs that are well below
25 the industry average, and I cannot disclose what those numbers are because

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1 they are proprietary information. But, in fact, those estimates appear to us, and
2 this is what we are arguing in the case, is very low compared to what it could
3 cost to bring a reactor that is experiencing the kind of problems that Indian
4 Point 2 is having back into compliance.

5 The Subpart M proceeding does not have the ability to take
6 on this kind of extensive licensing inquiry. In fact, the Commission has made
7 that clear -- that Subpart M is basically a procedural matter which involves very
8 little in depth investigation and review and is basically an informal kind of
9 proceeding.

10 The kind of problems that would be posed at this point by
11 Con Edison and Entergy submitting a license transfer application for Indian
12 Point 2 are not able to be addressed in that context. We believe the NRC
13 should make that clear before it gets to the point of the utility and Entergy
14 submitting an application and having to deal with it in that context.

15 We believe that the NRC can make its position on this issue
16 clear now and not have to waste agency resources and waste the resources
17 of the utilities, which should be being spent on bringing the reactor into safety,
18 on a hearing to transfer a license that should not be allowed.

19 Now, going on to the last point, which has to do specifically
20 with the issue of Entergy taking over. This has to do with the new information
21 we are submitting on the basis of our redacted contentions on Entergy's
22 financial qualifications to operate FitzPatrick and Indian Point 3.

23 Entergy has not demonstrated -- at least, this is our belief
24 and this is what is going to bear out in terms of the hearing -- Entergy does not
25 have the financial solvency to handle the kind of reactor -- the kinds of

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1 problems that are posed by Indian Point 2 at this point. In fact, on the basis of
2 our witnesses' testimony, we believe -- and this is actually, I think, something
3 that Entergy has said -- is that they only have the ability to handle four to six
4 months of outage time for both of those reactors.

5 One of those reactors alone could go longer, but that leaves
6 the other reactor without any ability to withstand an outage. Well, Indian Point
7 2 without even being back within its licensing basis has already gone -- a ten
8 and a half month outage. And it is not clear that anything fundamental has
9 been changed at that reactor.

10 So, the issue of having to face an outage like Millstone 2, or
11 the Millstone reactors or Salem or any of the others, Nine Mile Point, Entergy
12 would basically be put in an economic position of having to avoid at all cost that
13 situation. We believe that presents a situation which the NRC should avoid
14 from the outset because the signs are already there that it is unacceptable.

15 Also, Entergy has not demonstrated the organizational
16 capacity -- with taking over as many new reactors as they have -- to begin
17 addressing the fundamental problems of Indian Point 2.

18 What we believe at this point, in terms of the issue of
19 entertaining a license transfer for Indian Point 2, is that this would be going
20 from the frying pan into the fire and that the NRC should basically close the
21 door on that option at this point -- in terms of both providing Con Edison with
22 the incentive to bring the reactor within regulatory compliance and actually
23 exhibit concern about safety substantively -- as well as the fact that, once this
24 reactor is transferred to an unregulated new company like Entergy in the
25 domain in which they are going to be operating it, this may be the last

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1 opportunity the NRC has to insure that Indian Point 2 is run safely in the future
2 -- that, in fact, Entergy will not have the ability to do the work to bring Indian
3 Point 2 back into regulatory compliance.

4 And this is, in fact, why we ask that the reactor be shut down
5 until these issues are addressed, and this is also why we believe that the
6 license should not be transferred -- and that that is a condition that can be
7 placed on the license.

8 Thank you very much.

9 CHAIRMAN ZWOLINSKI: Can you expand just a little bit for
10 our understanding, is there a proceeding ongoing in the state of New York that
11 you are referring to?

12 MR. JUDSON: In terms of --

13 CHAIRMAN ZWOLINSKI: IP-3 and FitzPatrick.

14 MR. JUDSON: Well, there is no proceeding in New York at
15 this point. It is the NRC review of the license transfer application which we are
16 involved in --

17 CHAIRMAN ZWOLINSKI: That is what you were referring to
18 earlier as far as some of the financial concerns that you were raising is that
19 particular activity.

20 MR. JUDSON: That is right.

21 MS. KATZ: We intervened in the license transfer, and we got
22 standing and contentions.

23 MR. JUDSON: And, in fact, the NRC ordered Entergy and
24 the New York Power Authority to submit proprietary information to us, on the

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1 basis of which we were able to craft this contention, the redacted version of
2 which you have -- which discusses these financial qualifications issues.

3 We believe this is typical of license transfers throughout the
4 industry at this point. We believe -- what is clear, in terms of Indian Point 3
5 and FitzPatrick and will be made more clear through adding Indian Point 2 to
6 the roster, is that the financing that Entergy and AmerGen and Dominion at this
7 point are having to go through in order to sort of daisy-chain reactors operating
8 in an unregulated environment to each other financially is something that is
9 very precarious, especially in terms of the NRC's ability to regulate effectively,
10 and in terms of the company being able to assure safety.

11 MR. RICCIO: If I can just throw out a suggestion too. It is
12 evident, to us at any rate, that, obviously, senior management disagrees with
13 us. They do not have the benefit of this information, perhaps, but it is obvious
14 that, since you have allowed the reactor to restart, that senior management is
15 not of the same opinion that we are that they are outside their compliance with
16 their design basis.

17 We do not have faith though that this can be adequately
18 addressed by senior management, especially when the person who is going to
19 be signing off on this petition eventually are the same people that basically
20 forced your own engineers to ignore -- did not force them -- they basically
21 pressured them into not asking a second round of questions on the RAI that
22 resulted in the steam generator tube rupture.

23 We would prefer that the commissioners actually address this
24 petition, rather than having senior management at the agency, because, quite
25 honestly, we do not have very much faith in senior management at this point,

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1 given that we feel that they are a bit biased and are basically trying to get the
2 plant restarted rather than addressing safety concerns.

3 I know we have petitioned in the past to have petitions
4 addressed by the commissioners rather than senior management -- that might
5 be acceptable to my co-petitioners. I would make that suggestion.

6 MR. JUDSON: And, in fact, we understand that the NRC
7 itself is under a lot of pressure in terms of this restructuring of the industry, in
8 terms of the NRC's ability to adapt to a changing -- regulated utility environment
9 to something that is very different than what going on before -- and the
10 pressure on the NRC to make sure that the US does not lose a lot of its electric
11 generating capacity. We understand that the NRC is under a lot of pressure
12 in order to enable that process to -- that transformation to happen.

13 We are concerned in particular about a lot of the anomalous
14 situations that we see occurring especially with reactors like Indian Point 2
15 being transferred. What I would add in terms of the ability of these kinds of
16 issues to be addressed in a Subpart M proceeding -- We have actually raised
17 that in our own cases in our initial contentions stage. You can see the
18 Commission's responses in terms of their intention for Subpart M and the
19 license transfer proceeding not to take on licensing inquiry. That's why we
20 believe we need to turn to the 2.206 at this point.

21 MS. KATZ: That is why we had so much concern because
22 it is merely financial what they will focus on and that is what the Commission
23 has made clear but the issues of what to do with a troubled plant that is facing
24 transfer, and if you then do not deal with the troubles before you transfer, then
25 you are in a hell of a mess, for everyone.

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1 Since people in the community are the ones who are most
2 affected by that mess, that is why we are raising it now, because this is the time
3 that the NRC can actually act to get them to do it right. This is the opportunity
4 to do it right, which is really important.

5 It is important for us, but it is also important for the NRC in
6 terms of how they are seen at this point. Everyone knows that Indian Point is
7 in trouble. I mean, you can talk to anyone in that community, in New York
8 state, in New England. They all know.

9 What they cannot understand is that the NRC does not seem
10 to know or will not do anything about it.

11 CHAIRMAN ZWOLINSKI: Do you have any additional
12 comments?

13 If I could -- Tim?

14 MR. JUDSON: What I would say on that point is that, in the
15 implementation of the new oversight process, the NRC has identified a number
16 of priorities that it has in terms of the effectiveness of the new oversight
17 process. One, obviously, of which is protecting the public health and safety.
18 The other two are increasing public confidence and reducing regulatory burden
19 on licensees. And we believe that an instance --

20 CHAIRMAN ZWOLINSKI: Unnecessary --

21 MR. JUDSON: -- unnecessary -- reducing unnecessary
22 regulatory burden. Right. Well, there is a problem in terms of how
23 unnecessary is defined.

24 MS. KATZ: Right.

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1 MR. JUDSON: It is a very qualitative term. But in terms of
2 the situation of a reactor like Indian Point 2 where this is very immediate -- is
3 how the NRC prioritizes the concerns over public safety and public confidence
4 and regulatory burden.

5 We believe that this instance -- that this case right now is a
6 test of that that will have repercussions far-stretching down the road, in terms
7 of all those issues.

8 CHAIRMAN ZWOLINSKI: I wanted to provide one degree --
9 or one bit of clarification, and you may all know this. The federal law essentially
10 has the office of Nuclear Reactor Regulation involved in handling this particular
11 Petition. When you get to the point where there is a final director's decision --
12 which I cannot predict the outcome -- that Petition or director's decision is
13 reviewed by our Commission and there is a fixed period of time in which they
14 are --

15 MR. BERKOW: Review is discretionary. It is not mandatory.

16 CHAIRMAN ZWOLINSKI: But it is afforded within the way
17 the law is currently written. I think you are well aware of that, but I just wanted
18 to --

19 MR. RICCIO: We just prefer that someone above the senior
20 management take responsibility because we do not have confidence in senior
21 management right now. I know there are petitions that have been written that
22 have asked that the petitions go directly to the Commission. We have not gone
23 that route. I do feel that, given that we are 24 miles from New York City, that
24 perhaps the Commission might want to step forward and make a determination
25 about this Petition.

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1 CHAIRMAN ZWOLINSKI: Okay.

2 PETITION MANAGER GRATTON: I did have one clarifying
3 question regarding information that is provided. This additional information
4 supplements the five requested actions that you have put in. I did not hear any
5 additional requested actions today.

6 MS. KATZ: Well we believe it supports what we read. That
7 is what we are doing at this point.

8 PETITION MANAGER GRATTON: I just wanted to make
9 sure --

10 MS. KATZ: If you act on those and grant those, we will be
11 very happy. Let's put it that way.

12 (Laughter.)

13 MR. GOLDBERG: I want to inquire about these condition
14 reports that you have submitted. It is one thing for you to make public whatever
15 you want to make public. That is your decision. You are essentially asking us
16 now to make these public, because our normal process is to attach any
17 information that is provided at these meetings to the transcript which in its
18 entirety then becomes a supplement to the 2.206 petition which is a public
19 process.

20 Is it your understanding and belief that the individuals who
21 supplied these condition reports to you were authorized to remove them from
22 the licensee's property and provide them to you?

23 MS. KATZ: I do not know. I am not at all sure that they were
24 allowed to do that. I think they acted out of concern, and part of that concern

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1 is that they have not made themselves known to us in terms of who they are
2 because of their fears of repercussions.

3 So, if the NRC has concerns about putting this out in terms
4 of documentation, I can understand it. What we were turning it over to you for
5 was to analyze it, not to use it for publicity. That is not the issue. The issue is
6 for the NRC to look at it, and to make a determination about whether or not it
7 is serious or not to you in terms of making decisions about what state Indian
8 Point is in.

9 MR. RICCIO: If I could follow up. Why are you concerned
10 with whether or not they had permission to remove this information from the
11 site?

12 MR. GOLDBERG: You are asking us to make publicly
13 available documents which might have sensitive information in them. There are
14 Privacy Act concerns. There are proprietary information concerns. We have
15 your representation that there is no proprietary information in here. That does
16 not quite cover the concerns --

17 MR. RICCIO: Okay.

18 MR. GOLDBERG: -- that an agency has in making documents
19 publicly available. So, what we are going to need to do, to follow the 2.206
20 process as closely as we can, is -- we can make the transcript of this meeting
21 publicly available in the normal course as soon as we can. But, with respect
22 to those documents, we are going to have to look at them and evaluate them
23 and provide copies to the licensee and have their position as to whether there
24 is anything proprietary in there, were there any privacy concerns that they have
25 about any individuals who might be identified in those documents and things

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1 like that. And, if not, they will be made publicly available in their entirety. If so,
2 we will comply with the law in providing redacted copies.

3 MR. RICCIO: We would appreciate if you find things in there
4 that you believe safeguards information that should not be made public, please
5 inform us. Obviously, we do not want to be telling people how to break into the
6 nuclear plants.

7 MS. KATZ: We made the choice to not bring these
8 documents anywhere but here, and that was because we felt it was important
9 that we represent the workers' concerns, and we would want you to go through
10 that process.

11 MR. GOLDBERG: I am concerned about the next step in the
12 process, and that is putting this out to the public before anybody has really
13 looked at it here.

14 MS. KATZ: We understand that completely.

15 MR. JACOBS: Regardless, whatever you find in that, you,
16 as evaluating staff, will look at all of the documentation in considering the
17 Petition.

18 Is that a correct understanding?

19 MR. GOLDBERG: Of course, and if warranted, we could
20 obtain additional documents. That is not an issue. There is no problem in our
21 obtaining whatever information we need to satisfy ourselves. But it is another
22 thing to make it publicly available prior to any review of the documents.

23 MR. RICCIO: Now, if I could ask another question, we have
24 the 5054F affirmation by the head of Con Edison swearing that he has systems

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1 in place to assure that many of the things that they have documented would not
2 exist.

3 How do we assure that the agency will even address -- or do
4 we need to start some other vehicle to assure that the agency address what
5 seems to be a disparity between the response to the 5054F letter and what is
6 going on at the facility.

7 MS. KATZ: Right.

8 MR. GOLDBERG: Well, you could supplement this petition.
9 You could submit a separate petition. You could make an allegation. Use the
10 allegation process. I think you would have to decide what vehicle you wanted
11 to use to formally raise that issue with us.

12 MS. KATZ: Because that is clearly a concern to us -- that
13 commitments were made that have not been followed through on. This is one
14 of the issues of Northeast Utilities and Millstone. It seems to us very significant
15 and very similar. And we believe that that has to be clarified.

16 MR. GUNTER: Paul Gunter, Nuclear Information Resource
17 Service. I would direct a question to OGC. As you go through the CRs, with
18 the licensee, will you be able and will you provide the Petitioners with the
19 specific reasons why any CR would not be included in being made a public
20 document.

21 MR. GOLDBERG: We will have -- if there are bases to
22 withhold it from the public in the licensee's view, they will provide those to us
23 and we will then make the judgment. It will be our decision --

24 MR. GUNTER: Right.

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1 MR. GOLDBERG: -- based on information we get from the
2 licensee and our own evaluation. And, if there is any part of the document that
3 is not made publicly available, a reason will be provided.

4 MR. RICCIO: Any timeframe in terms of that. I am a little
5 concerned that there are some issues here that seem very timely, especially
6 since you are still trying to start the reactor. And if we sit back and wait until
7 NRC gets ready to go through every one of the CR reports, I am sure the plant
8 will be up to 100 percent by then. Well, I am not sure. I think they may be able
9 to get there.

10 There are other people that are obviously interested and
11 concerned about the condition reports. Basically, what I am concerned about --
12 I do not want to be taking stuff that you do not feel that should be made public
13 and making it public. I am not going to wait months for NRC to respond. As
14 a matter of fact, I am not going to wait very long at all. So, if you have
15 someone who finds something very quickly that might be a problem, please
16 contact us.

17 CHAIRMAN ZWOLINSKI: The expectations are that we
18 move through this material fairly swiftly. Jack does raise an excellent point to
19 insure the integrity of the process, and there are other vehicles that we also use
20 if material cannot be made publicly available.

21 MR. RICCIO: Just the sheer fact that basically we have these
22 -- that workers did not feel that they could come to either the NRC or to
23 management, I think, speaks volumes.

24 MR. JUDSON: Would it be possible for us now or some time
25 in the next few days to set up a call to negotiate a timeframe for that?

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1 CHAIRMAN ZWOLINSKI: Recall my opening remarks that
2 we are in a process in which we are in the very beginning of assuring we have
3 as much information as possible to take to the Petition Review Board, and the
4 Petition Review Board then affords opportunity to engage again at the other
5 end of that.

6 This is not a protracted, several-month process. This will go
7 fairly quickly, I would think. As far as engaging the licensee -- things of that
8 sort, we will separate that out. I would think that we would be talking weeks
9 and not months. And I have the sensitivity -- you would expect us to be
10 thorough in our reviews, to the extent we ask the licensee, we would put a
11 timeframe on that particular request.

12 MR. JUDSON: I was just thinking in terms of Jim's need and
13 potentially our needs in terms of being able to know what we can discuss
14 openly with people outside of our organizations about these reports. And so,
15 in terms of being able to know when we can expect that determination would
16 be helpful.

17 CHAIRMAN ZWOLINSKI: Mr. Gratton will be in touch with
18 you folks as to how the process moves on a very frequent basis. And I would
19 like to think it would meet your expectations.

20 The next step, if you all have completed your remarks, is to
21 afford the licensee the opportunity to provide their comment.

22 Is it fair, Ms. Katz, to characterize that you have completed
23 your remarks?

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1 MS. KATZ: What we realized is actually -- if I could be given
2 some of the material back. We realized that there is a potential number on it
3 that Mark can deal with quickly that will protect the people who gave this to us.

4 I am sorry. Mark was talking to me at that moment when you
5 said what you last said. So, if you could repeat it.

6 CHAIRMAN ZWOLINSKI: Are you finished?

7 (Laughter.)

8 MS. KATZ: Yes, we are. We appreciate the time that you
9 have taken to go over this with us. And I am sure we will be in touch. And
10 what we will in fact look into is a supplemental petition potentially for the 5054F
11 -- in terms of those issues. Since that, in some ways, is what we were raising
12 in terms of our petition itself was their lack of actually meeting the commitments
13 that they had sworn under oath to meet. That happened in Connecticut, and,
14 in fact, Northeast Utilities was fined \$9 million by the state of Connecticut for
15 that fiasco.

16 CHAIRMAN ZWOLINSKI: Before I move to the licensee,
17 does any of our staff, the NRC staff, have any questions of these folks? Diane
18 and Neil in the Region?

19 MR. SHEEHAN: No questions.

20 CHAIRMAN ZWOLINSKI: Okay. Thank you.

21 MR. MCCANN: My name is John McCann. I am the
22 manager of Nuclear Safety and Licensing for Con Edison. I promise to be brief
23 in view of the time. I appreciate the opportunity to be here in person and to hear
24 first hand the concerns that are raised by the groups that are participating in
25 the Petition.

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1 I would like to point out -- I think it is important to note that
2 Con Edison did in fact have a broad range of initiatives underway at Indian
3 Point that focus on the fundamentals of improving our performance for some
4 time now. We place a very high priority on these improvement initiatives and,
5 in fact, in order to avoid any potential for distraction from those improvement
6 efforts during the steam generator replacement effort, which, as you know, was
7 not a scheduled activity in our 2000 business plan, a completely separate
8 parallel organization was put in place to deal with that to allow the plant staff
9 the opportunity to continue to concentrate on those important improvement
10 initiatives that were underway. We believe that was successful and helped us
11 to keep going in that right direction.

12 I certainly think that most of the items that were discussed in
13 the December 4 letter are issues that have been the topic of considerable, to
14 some degree, public discussion between NRC and Con Edison. It appears in
15 docketed inspections reports and correspondence and I believe that information
16 has been properly considered and its safety significance evaluated in the
17 NRC's conclusion and decision to place Indian Point Unit 2 in column four --
18 multiple degraded cornerstone position on the action matrix.

19 Notwithstanding the information presented today, that would
20 say that it would be appropriate to continue in the inspection and oversight
21 process that is laid out for plants that are in the degraded multiple cornerstone
22 category. That would seem the most appropriate approach to us.

23 With respect to the information that was provided today, I will
24 just note for the record that each of these condition reports, just so it is clear
25 to all the participants here today, would be a report that is formally made by

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1 personnel at the station, basically, to station management. So these are all
2 documents that are available basically for anyone to review at the station. They
3 are frequently reviewed by the inspection team. But, of course, the NRC does
4 not, I believe, go through every one of these, which is a sampling inspection
5 program. But there has been some 420 hours of inspection time devoted
6 recently by the Commission on the problem identification resolution area and
7 the problem identification resolution inspection. I think that as we work our way
8 through these particulars, we will find that most of these issues have probably
9 been reviewed at least at a higher level already and that then would also have
10 been properly considered as we moved through with the action matrix. So, I
11 guess in summary our belief is that where we are right now is the appropriate
12 place in the inspection and oversight program at the existing process as the
13 means and place to work through these issues without recourse to the items
14 laid out in the Petition.

15 CHAIRMAN ZWOLINSKI: Do you all have a position as to --
16 would you want to respond to the transcript or would you wait until the agency
17 has formally requested you to address certain issues.

18 MR. MCCANN: I am not completely sure I understand the
19 question, John. We want to respond as quickly and as effectively as possible
20 to answer whatever questions the Commission may need answered to resolve
21 the Petition. So, whatever works best. If responding to the transcript works
22 best, if responding to specific questions

23 If there are some reports that the staff feels they need some
24 more information -- whatever is the best way to do that, we will be happy to
25 support.

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1 CHAIRMAN ZWOLINSKI: I have two or three things on my
2 mind. I am sensitive to Jack Goldberg's point of assuring that the information
3 is releasable, publicly available. That is an important issue to address in a
4 timely manner so we can get on with the activity of all this review. So that
5 would be one.

6 Secondly, the transcript is going to be available very quickly.
7 And we heard at least an hour if not longer of discussion raising certain issues.
8 You may wish to comment on those independently.

9 We also -- in going through -- the Petition Review Board may
10 formally request you provide us additional information. So there are a variety
11 of vehicles to engage. But I think I heard a sensitivity to -- we will move swiftly,
12 promptly. I think that is a fair request of the agency and we will try to
13 accommodate you there.

14 MR. GOLDBERG: Let me suggest that we can make copies
15 of these condition reports right now and give them to you -- and request that
16 as soon as you can respond, you do so.

17 MR. MCCANN: I assume, when we talk about the condition
18 reports, we will be talking about more than these two pages.

19 MS. KATZ: Yes.

20 MR. GOLDBERG: We are talking about the actual condition
21 reports as they are submitted.

22 CHAIRMAN ZWOLINSKI: Thank you very much for your
23 comments. I believe we have come to essentially a point where I feel that we
24 have discussed the process and our next steps. You actually heard that one
25 of the immediate next steps has been relayed to the licensee.

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1 So we have work to do. And we will engage you through our
2 petition manager, Mr. Gratton. As for the transcription and its publication --
3 typically about a week's time and then it becomes available. We will assure
4 you get a copy of that. As we have mentioned we essentially try to make all
5 this information publicly available.

6 MR. RICCIO: Just a quick request that it be placed on the
7 website not on Adams. You can place it on Adams as well, but place it on the
8 IP-2 website that you have created. That would be great.

9 MR. SUBBARATNAM: One other thing. Everyone sign the
10 attendee list -- care to give a comment about the meeting feedback form --

11 CHAIRMAN ZWOLINSKI: Good catch. The meeting
12 attendee list -- do you have it, Chris?

13 PETITION MANAGER GRATTON: Yes, if anybody has not
14 signed. It is right here.

15 CHAIRMAN ZWOLINSKI: Thank you. And, in our arena of
16 public confidence, the agency has a form that you can choose to fill out or not
17 and then return it back regarding how the meeting went and so on and so forth.
18 If there are no other comments, I will bring the meeting to a close.

19 MS. KATZ: Thank you.

20 CHAIRMAN ZWOLINSKI: Thank you very much.

21 (Whereupon, the above-entitled proceedings went off the
22 record at 4:20 p.m.)

23

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