

ORIGINAL ✓

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Title: PRESS CONFERENCE

Location: ONE WHITE FLINT NORTH, ROCKVILLE, MARYLAND

Date: WEDNESDAY, DECEMBER 21, 1988

Pages: 1-31

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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5 PRESS CONFERENCE
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9 Nuclear Regulatory Commission
10 Commissioners Conference Room

11 One White Flint North

12 11555 Rockville Pike

13 Rockville, Maryland
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16 WEDNESDAY, DECEMBER 21, 1988
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19 11:55 o'clock a.m.

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1 PRESS CONFERENCE

2 MR. FOUCHARD: If you will all sit down, we will
3 proceed in an orderly fashion and when he is through, Mr.
4 Martin Malsch, our Deputy General Counsel, and Bill Russell, a
5 regional administrator, will discuss any details you want. Mr.
6 Chairman.

7 CHAIRMAN ZECH: Thank you very much. I will take
8 your questions.

9 QUESTION FROM THE PRESS: Can you tell us in real
10 terms what the decision you made regarding Shoreham is today?

11 CHAIRMAN ZECH: Regarding Shoreham today, we made a
12 decision on three Appeal Board decisions. Essentially, we
13 agreed with two of the Appeal Board decisions, the first one,
14 Atomic Licensing and Appeal Board decision 900, involved
15 whether or not the emergency planning scope could be challenged
16 and we agreed with the Appeal Board that that would be
17 admitted.

18 ALAB-901 was an Appeal Board decision that involved
19 the emergency planning litigation and we agreed with the
20 decision that the Appeal Board made in that regard. Appeal
21 Board decision 902 was one that you heard declared moot because
22 that is the one that the Commission has already taken itself to
23 decide and that concerns whether or not the government and
24 local parties to the Licensing Board hearing should be
25 dismissed or not.

1 That decision has not been made by the Commission. I
2 would anticipate that we will be able to make that decision
3 perhaps as early as late January or early February. That is
4 the decision we made today regarding Shoreham.

5 QUESTION FROM THE PRESS: What about Seabrook, Mr.
6 Chairman? Can you in layman's terms explain the effect of your
7 decision?

8 CHAIRMAN ZECH: Yes, I will. Regarding Seabrook, the
9 decision we made today was, I would say, very focussed. It
10 simply involved whether or not there was sufficient financial
11 qualifications of the applicant to provide that the public
12 would be protected in the event that we did authorize low power
13 and we later did not authorize full power.

14 We felt that it was responsible action on our part to
15 ensure the public health and safety would indeed be protected
16 if we authorized low power which we have not done yet but if we
17 did do that and later we would not authorize full power, it
18 would be important to have the funds necessary to provide
19 clean-up and so forth, decommissioning, at that stage so that
20 public health and safety would be protected. That is the
21 decision we made regarding Seabrook today.

22 QUESTION FROM THE PRESS: Mr. Chairman, does the
23 Commission need to approve again the \$72 million dollar
24 decommissioning plan or will it just be approved by NRC staff?

25 CHAIRMAN ZECH: The staff has the authority from the

1 Commission under our regulations to authorize five percent
2 power. The Commission has taken it unto itself by our practice
3 to authorize full power so the staff could authorize five
4 percent power if they decided that the licensee had met the
5 requirements of the NRC.

6 QUESTION FROM THE PRESS: Would the Commission in
7 turn have to approve each stage of the power ascension at
8 Pilgrim when they go from five to 25 to 50 to 75 or will that
9 be staff approval?

10 CHAIRMAN ZECH: The staff will inform the Commission
11 at each of those steps allowing the Commission if we see fit to
12 step in at that time. We have not told the staff what our
13 action would be.

14 We reserve the right during those power ascension
15 phases to step in at any point we feel would be appropriate and
16 I would just like to add to that, too, that it is important, I
17 think, to note during that power ascension stage that the
18 Commission inserted itself to ask the staff not only to give us
19 a report on the technical operations of the plant during that
20 power phase but also to comment directly on emergency planning
21 and to ensure ourselves that improvements continue to be made
22 in emergency planning.

23 QUESTION FROM THE PRESS: Mr. Chairman, excuse me,
24 regarding Pilgrim, do you know whether the NRC has ever
25 approved the operation of a plant in the post-TMI period

1 without a FEMA approved -- not exercised but at least FEMA
2 approved emergency plan in place and a second part to that
3 question, do you think that because technically in this case,
4 FEMA has not approved such plans for Pilgrim, that your action
5 today might be vulnerable in court?

6 CHAIRMAN ZECH: Our action today as far as I am
7 concerned is very responsible. The Commission has acted in a
8 very difficult situation. I think we have acted appropriately
9 and I think we have made the decision that was necessary to be
10 made by this Agency because we are the one responsible for
11 deciding whether or not the public will be protected in the
12 remote possibility of a radiological accident.

13 That is the decision we made today. I think we made
14 the appropriate decision. We made that decision recognizing
15 the fact that there have been exercises in the past in 1982,
16 1983 and 1985 at the Pilgrim plant. Those exercises were
17 considered successful.

18 There have been great improvements made we understand
19 from the local officials as well as from our staff that since
20 those plans had been exercised some years ago. We do, of
21 course, prefer to have a fully exercised plan. It gives us
22 more confidence but I want to emphasize that it is our
23 responsibility at this agency to make one important decision
24 and that is, will the public be protected in the unlikely event
25 of an accident.

1 We believe as we voted today in our unanimous
2 decision that there is reasonable assurance that if there was
3 an accident that the public would be protected. That is the
4 basic and fundamental decision we made.

5 QUESTION FROM THE PRESS: At the last meeting, there
6 was an obvious disparity from some of the public testimony,
7 from Senator Kennedy and others and state officials and your
8 staff. The testimony indicated from their point of view
9 clearly the local officials said they weren't ready. The staff
10 said they were. How do you reconcile this disparity, these two
11 completely opposite views?

12 CHAIRMAN ZECH: Well, with a great deal of
13 difficulty. I think personally the local officials, the state
14 Commonwealth officials and the representatives, the elected
15 representatives, presented themselves to us in a very straight
16 forward manner and I think they were honestly telling us their
17 views. I think our staff did exactly the same thing.

18 The Commission then is faced with a decision to make.
19 We hear from our staff that in their view after careful and
20 considerable efforts and considerable work in the area that the
21 staff feels that there is reasonable assurance that the public
22 health and safety will be protected. That is a decision we
23 have to make.

24 On the other hand, we hear from the local citizens
25 that they are not satisfied with the state of training. They

1 are not satisfied with the planning that has gone on so far. I
2 would just emphasize again the decision we make has to be based
3 on whether we conclude that the public health and safety can be
4 protected in that event.

5 We would, of course, like more training. Training
6 never completes in any site in the country. The planning
7 process is continually improved all the time. It was
8 encouraging frankly to hear from the local officials almost
9 unanimously that the plan is much better off than it ever has
10 been before.

11 On the other hand, the decision we have to make is,
12 is it adequate to protect the public health and safety. We
13 recognize that the plans have been exercised in the past. We
14 would like to see them improved. Apparently, they are being
15 improved rather significantly. It looks like they will
16 continue to be improved by the relations that are going on.

17 So with that basis, I think, you heard from my
18 colleagues as well as my decision, we did conclude that the
19 public could be protected.

20 QUESTION FROM THE PRESS: Have you just decided that
21 Seabrook, if I understood this correctly, that you will go
22 ahead and give or you can give an operating license to a
23 bankrupt utility without ruling on the question of its
24 bankruptcy? You have had a ruling for 20 years and I know you
25 gave it up a couple of years ago that said that you had to be

1 financially responsible, you have to have safety first and
2 economics second but have you just voted here today to allow
3 giving a license to a bankrupt utility?

4 CHAIRMAN ZECH: No, we have not but what we have done
5 as I tried to explain is to focus our decision today very
6 narrowly on the decision as to whether or not it would be
7 prudent, whether or not the public would be protected if we
8 give a low power license to a facility and then later on be
9 required to cancel that license because the full power license
10 would be issued.

11 We have not addressed whether the full power license
12 should be addressed at all and, of course, that would be
13 addressed at some time in the future.

14 QUESTION FROM THE PRESS: Do you still have that
15 petition before you? You still have a petition from the
16 opponents to consider Public Service's bankruptcy?

17 CHAIRMAN ZECH: We voted today, let me explain in
18 layman's language as carefully as I can, the applicant told us
19 in a request for financial qualifications information that they
20 thought they needed \$21 million dollars in case they were
21 issued a low power license and the plant was not issued a full
22 power license in order to clean it up.

23 QUESTION FROM THE PRESS: Right.

24 CHAIRMAN ZECH: Our review here today and the Order
25 we issued today said that we believe that rather than \$21

1 million, the facility would need \$72.1 million dollars. We did
2 make some options so that they can decide how best to come up
3 with the funds they might require but our decision was very
4 focused strictly on low power, strictly on whether or not the
5 public could be protected in case we issued the low power
6 license and the full power license were not issued.

7 QUESTION FROM THE PRESS: Does the joint and several
8 guaranty mean that if a nuclear plant were owned by a single
9 owner and went bankrupt that you would not be able to do it?

10 CHAIRMAN ZECH: I am sorry. Repeat your question,
11 please.

12 QUESTION FROM THE PRESS: There was a provision of a
13 joint and several guaranty that they have to pay for the
14 decommissioning. Can I assume that has to do with the fact
15 that Seabrook is owned by more than one owner?

16 CHAIRMAN ZECH: Yes, exactly right.

17 QUESTION FROM THE PRESS: Then I was wondering if a
18 plant were wholly owned by one utility that went bankrupt
19 whether or not this would be possible? That is what you are
20 saying.

21 CHAIRMAN ZECH: Well, what we are saying or least
22 what I am saying is that if a facility was wholly owned by one
23 facility and went bankrupt that we would consider that a very
24 special case and we would look it very carefully. If we felt
25 that the bankruptcy was going to affect the public health and

1 safety, we would very likely take actions to shut the plant
2 down or do whatever we needed necessary to protect the public.

3 QUESTION FROM THE PRESS: When would solvency be
4 considered? Would financial solvency be then considered when
5 you are dealing with a full power license?

6 CHAIRMAN ZECH: When will it be considered?

7 QUESTION FROM THE PRESS: Yes. As I understand it,
8 you are deferring the bankruptcy issue here until you look at
9 it in terms of full power.

10 CHAIRMAN ZECH: We considered the bankruptcy issue
11 today as to whether or not there were sufficient funds in view
12 of the bankruptcy declared, whether there are sufficient funds
13 under the financial qualifications of the applicant, the
14 licensee, at the present time to cover the low power license if
15 a full power license was not issued.

16 QUESTION FROM THE PRESS: The larger question of
17 solvency though, would that be addressed at the time of
18 issuance of a full power license?

19 CHAIRMAN ZECH: We have not addressed that. We did
20 not address that today.

21 QUESTION FROM THE PRESS: When will you address it?

22 CHAIRMAN ZECH: I am not sure when we will.

23 QUESTION FROM THE PRESS: Will you ever?

24 CHAIRMAN ZECH: Perhaps, but we haven't addressed it
25 today. That is what I want to tell you. We did not address

1 that today.

2 QUESTION FROM THE PRESS: My question is whether that
3 will be considered when you are looking at the issue of full
4 power licensing?

5 CHAIRMAN ZECH: I would think that we would have to
6 consider it at full power license if the situation exists as it
7 is today. We would want to be satisfied that their public
8 health and safety will be protected.

9 On the other hand, we have not decided to take our
10 financial qualification rule under consideration and rule
11 against it. We have left the financial qualification rule in
12 place as of today.

13 MR. FOUCHARD: Thank you, Mr. Chairman.

14 CHAIRMAN ZECH: Thank you very much.

15 MR. FOUCHARD: Marty Malsch is our deputy general
16 counsel and Bill Russell is our regional administrator at King
17 of Prussia. We won't have the orders for probably about a half
18 an hour. There will be no piece of paper on Pilgrim today.
19 The Commission order on Seabrook is roughly 40 pages and it is
20 going to take a little time. But let us help you if we can by
21 filling in any of the blanks either from the technical side or
22 from a legal side.

23 QUESTION FROM THE PRESS: In terms of the Seabrook
24 order, do I understand it correctly that as of January 6 or is
25 it January 7th, that if the staff got the information that it

1 needed in terms of compliance with what the Commission laid out
2 today, that the staff could grant the low power license?

3 MR. MALSCH: No. There are two conditions specified
4 in the order. First of all, the staff has to notify the
5 Commission that the decommissioning requirements of the order
6 have been satisfied.

7 Secondly, there is a pending matter before the
8 Licensing Board and that, too, must be resolved and then the
9 Order states that even assuming both those things take place,
10 no low power license can issue at least until January 6th.

11 QUESTION FROM THE PRESS: I have a question for Mr.
12 Russell. The people at Edison say they expect a team of NRC
13 inspectors on December 27th. Is that what your understanding
14 is?

15 MR. RUSSELL: The planning right now is that we would
16 not have an inspection team there prior to Christmas. The
17 earliest would be the 27th following the Christmas holiday.
18 That is consistent with the schedule that the licensee has for
19 completion of actions.

20 I currently have three resident inspectors at the
21 site that are looking and reviewing the status of the
22 licensee's action. Starting the 27th, the staff would
23 independently verify through its own activities the readiness
24 of the plant for initial criticality.

25 QUESTION FROM THE PRESS: How many additional

1 inspectors will you need? Will you need more than three?

2 MR. RUSSELL: We are estimating right now it will be
3 about a 1,000 hours per month of direct inspection throughout
4 the start-up program. At some periods of time, it would be
5 around-the-clock coverage, other periods of time, it would be
6 principally day shift.

7 We will go on around-the-clock coverage for those
8 events such as initial criticality, power increases and special
9 testing.

10 QUESTION FROM THE PRESS: As many as how many people
11 then might be there on-site?

12 MR. RUSSELL: Well, if you are going around-the-clock
13 coverage, you have three people per day plus the specialist
14 inspectors for testing so there could be some days where we
15 would have five or six people there.

16 QUESTION FROM THE PRESS: What is the earliest it
17 could open, sir? I think that is the basic question.

18 MR. RUSSELL: The earliest would be probably two to
19 three days following the 27th assuming that the staff does
20 indeed verify that the licensee's activities have been properly
21 completed but it will be a few days after the 27th both for our
22 independent confirmations as well as establishing the necessary
23 around-the-clock coverage for initial criticality.

24 QUESTION FROM THE PRESS: It could be open by the
25 first of the year?

1 MR. RUSSELL: That is possible, yes.

2 QUESTION FROM THE PRESS: If everything goes all
3 right, if there is no hitch along the way, when would do you
4 estimate it could be up to full power operation?

5 MR. RUSSELL: We have said that if it goes well, it
6 could be four to six months. There are hold points at each
7 point. There is first an evaluation by the licensee of its own
8 performance during the power ascension program at each phase.

9 So, for example, performance between criticality and
10 five percent, there will be an evaluation by the licensee.
11 That evaluation will be made public. There will also be an
12 evaluation by the NRC staff. Those two evaluations will be
13 reviewed.

14 I will receive a recommendation from a joint restart
15 panel which is made up of senior managers both from Washington
16 and from the Region. They will make a recommendation to me and
17 then I will make a decision on whether or not to proceed. The
18 basis for my decision will be forwarded to the Commission. The
19 Commission will have an opportunity to review that decision.
20 We will identify the schedule under which we will proceed and
21 give them an opportunity to intervene if they so chose.

22 QUESTION FROM THE PRESS: The other gentleman was
23 referring to the litigation. Is that the suit by the Attorney
24 General of the Commonwealth?

25 MR. MALSCH: No. This is a pending motion before a

1 licensing board to litigate additional on-site emergency
2 planning issues. That board has yet to rule on that motion.

3 QUESTION FROM THE PRESS: Technically whether to
4 accept the motion or on the merits?

5 MR. MALSCH: To accept the motion.

6 QUESTION FROM THE PRESS: And if it accepted it and
7 heard it, would the Commission have to pass judgment on the
8 board's decision?

9 MR. MALSCH: Then it would be heard in the normal
10 process. If it accepted the motion and decided that the matters
11 had to be heard and litigated, there would need to be an
12 initial decision on those issues and the Commission's usual
13 appeal process would follow. That could be a lengthy process.

14 QUESTION FROM THE PRESS: And how soon do you know
15 might the Board decide whether to accept the motion or not?

16 MR. MALSCH: I do not know. That would be up to the
17 licensing board itself.

18 QUESTION FROM THE PRESS: Could low power begin as
19 soon as January 6th?

20 MR. MALSCH: It is conceivable but there are some
21 very substantial conditions that need to be satisfied in the
22 decommissioning area. Recall, the Commission is insisting upon
23 an amount which is in excess of three times the amount the
24 Applicant offered and there are some other important
25 qualifications in the Order on decommissioning. So there are

1 some substantial conditions that have to be met.

2 QUESTION FROM THE PRESS: It is not likely to be
3 January 6th?

4 MR. MALSCH: I wouldn't hazard a guess.

5 QUESTION FROM THE PRESS: Could you characterize what
6 those issues are, the on-site emergency issues, just briefly
7 what kinds of things they are asking for?

8 MR. MALSCH: I could characterize them just generally
9 and that is, following the emergency planning exercise, the
10 Massachusetts Attorney General suggested to the Licensing Board
11 that the exercise suggested some problems with respect to the
12 on-site emergency plan; that is to say, the emergency plan for
13 protection of on-site personnel and workers. This is not a
14 public protection issue but a worker protection issue and that
15 matter is still pending before the Licensing Board.

16 QUESTION FROM THE PRESS: For Pilgrim?

17 MR. MALSCH: Seabrook.

18 QUESTION FROM THE PRESS: How are you dealing with
19 emergency planning, that whole issue at Seabrook? Is it
20 necessary for low power licensing?

21 MR. MALSCH: An off-site emergency plan approval is
22 not required for low power, only on-site emergency planning,
23 just for full power.

24 QUESTION FROM THE PRESS: How are you dealing with
25 the on-site emergency planning in this case? That is one of

1 the outstanding conditions.

2 MR. MALSCH: That is the outstanding condition that I
3 referred to. It is pending motion which relates only to on-
4 site emergency planning matters.

5 QUESTION FROM THE PRESS: Can you again talk about
6 the litigation, the second item? I don't understand the
7 subject of that litigation? There are two things, the \$72
8 million and the litigation, could you explain that?

9 MR. MALSCH: Before the Licensing Board?

10 QUESTION FROM THE PRESS: Yes.

11 MR. MALSCH: All right. We have a process whereby
12 before issues get actually litigated in hearings, you know,
13 expert witnesses are heard, testimony heard, cross-examination
14 takes place and the like, the issues are specified in advance.

15 In this case, some time ago there was litigation of a
16 whole variety of safety and other issues regarding the plant
17 and then as a result of the recent exercise, one of the
18 parties, the Massachusetts Attorney General, asked for
19 permission to litigate additional issues related to the on-site
20 emergency plan; that is to say, whether the on-site plan for
21 protection of on-site personnel and workers is sufficient.

22 That request to litigate additional issues is what is
23 pending. The Board could either deny the request in which case
24 that would be the end of it or it could grant the motion in
25 which case there would need to be some further evidence or

1 proceedings on the issues.

2 QUESTION FROM THE PRESS: Thank you.

3 QUESTION FROM THE PRESS: The Town of Borne on Cape
4 Cod has asked that it be included in Pilgrim's Emergency
5 Planning Zone. Has that decision been made yet?

6 MR. RUSSELL: The Town of Borne has a small portion
7 which is within ten miles but is not within the present
8 Emergency Planning Zone for the Pilgrim facility. Mr. Agnes
9 testified at the December 9th meeting that he had sent
10 documentation or would provide documentation regarding the
11 Commonwealth's request.

12 We have not yet received that. It had been discussed
13 in the past. The staff's position is that expanding emergency
14 planning beyond ten miles is a matter of discretion for the
15 state provided it does not diminish the quality of emergency
16 preparedness within ten miles which is an NRC regulation.

17 QUESTION FROM THE PRESS: Marty, would you go over
18 again the conditions that would be necessary before granting a
19 full power license?

20 QUESTION FROM THE PRESS: Could you answer that
21 question? I am sorry.

22 MR. RUSSELL: The staff position is that we do not
23 have a position regarding whether emergency planning is
24 extended beyond ten miles provided it does not diminish the
25 quality of emergency planning within ten miles and that matter

1 is a matter of discretion on the part of the state and if the
2 state wishes to do that, that is a decision for the state.

3 QUESTION FROM THE PRESS: So you are saying that the
4 State of Massachusetts then has to decide whether the Town of
5 Borne would be included? They are within the ten miles.

6 MR. RUSSELL: There is a small portion. The rule
7 does not provide precisely ten miles. It is approximately ten
8 miles. There is a small segment that is within ten miles.
9 Some eight residences now but there are plans to increase that
10 with building permits that have been issued. That is the
11 question that is pending and that will have to be addressed.

12 MR. FOUCHARD: I think there was a question over here
13 for Marty.

14 QUESTION FROM THE PRESS: Yes. The conditions,
15 Marty, once again that would be necessary before the staff
16 could give a low power license for Seabrook. There were three,
17 the \$72 million --

18 MR. MALSCH: Well, first of all, it is not just the
19 \$72 million. It is also satisfaction of the other conditions
20 in the decommissioning decision.

21 QUESTION FROM THE PRESS: Which are?

22 MR. MALSCH: In particular, they are either that the
23 applicant must come up with the \$72 million in one of the forms
24 approved by the decommissioning rule or it may instead provide
25 for the money up front but with a guaranty by some of the joint

1 owners to make up for any possible shortfall. So those
2 conditions which are both related to decommissioning would have
3 to be satisfied.

4 QUESTION FROM THE PRESS: So it is still a money
5 issue?

6 MR. MALSCH: It is a money issue. Well, it is really
7 a safety question. The problem is really not will the money be
8 there. The problem is can be assured of safety at the time of
9 the decommissioning.

10 QUESTION FROM THE PRESS: The Commission has set that
11 aside.

12 MR. MALSCH: That is essentially it.

13 QUESTION FROM THE PRESS: That is the one you
14 referred to.

15 MR. MALSCH: The second condition is that there must
16 be this Licensing Board decision on the request to litigate
17 additional on-site emergency planning questions.

18 MR. FOUCHARD: I think you had something to add,
19 also, as I recall on the full power issue.

20 QUESTION FROM THE PRESS: This is the one that was
21 raised by the Massachusetts Attorney General as ot litigate
22 additional issues?

23 MR. MALSCH: That is correct. Now the order also
24 says that in no event could a low power license issue before
25 January 6th. Let me also add one other thing in response to

1 one of your earlier questions. You had asked what about
2 financial qualifications for a full power.

3 QUESTION FROM THE PRESS: Yes.

4 MR. MALSCH: I should note that the issue before the
5 Commission brought to it by five parties relates solely to
6 financial qualifications for low power and the reason for that
7 is because the entire financial qualifications issue arises as
8 a result of inability of Public Service Company of New
9 Hampshire to factor into its rate base Seabrook because it
10 doesn't have a full power license.

11 So that led to concerns about the anti-clip statute,
12 utility bankruptcy and the whole thing. So the whole thing has
13 been premised upon concerns about low power operation thus far
14 and that is the only issue the Commission decided today.

15 QUESTION FROM THE PRESS: Can you into detail on the
16 second point, the issues that are still remaining as far as
17 litigation?

18 MR. MALSCH: This is just a request by the
19 Massachusetts Attorney General just to litigate additional
20 issues regarding adequacy of the on-site emergency plan.

21 QUESTION FROM THE PRESS: What were some of their
22 issues?

23 MR. RUSSELL: So you want me to answer that as far s
24 the technical issues?

25 MR. MALSCH: Sure, go ahead.

1 MR. RUSSELL: The staff issued an inspection report
2 that addressed the timeliness and quality of decision-making by
3 the technical staff of the licensee during a simulated
4 emergency. It was an on-site issue.

5 That inspection report, the language in the report,
6 raised some questions regarding issues which had been earlier
7 addressed. The staff did a subsequent follow-up inspection on
8 subsequent activities and has provided affidavits to the Board
9 where we do not believe that the issues raised to the level
10 where additional litigation is required.

11 However, that is the issue that is in dispute. It is
12 the NRC inspection findings on how the NRC dispensed with those
13 inspection findings.

14 QUESTION FROM THE PRESS: What is his complaint in
15 other words that needs to be addressed?

16 MR. RUSSELL: The issue is whether the company has
17 the adequate technical capability to address emergency
18 planning, what I would characterize as on-site activities,
19 management of the reactor itself. That is the issue, the
20 timeliness of that decision making.

21 MR. FOUCARD: One more.

22 QUESTION FROM THE PRESS: May I ask you two precedent
23 questions here. In terms of the conditions set on the power
24 ascension at Pilgrim, are those typical of when a troubled
25 reactor re-opens and there was a question asked of the Chairman

1 earlier as to whether a plant has ever been allowed to open or
2 re-open without a FEMA approved emergency plan.

3 MR. RUSSELL: Well, there are two questions there.
4 The first one has to do with the scope of the power ascension
5 program and the close control by the staff and the monitoring.
6 The one that comes closest to that would be the re-start for
7 Three Mile Island Unit 1 following the accident. That was the
8 unaffected unit at TMI.

9 The specificity in this plan is greater and we have
10 criteria that we will be using for release from each hold point
11 and we are using a joint panel of managers to review both the
12 licensee's evaluation of itself and the NRC evaluation. So
13 those aspects are unique.

14 QUESTION FROM THE PRESS: This is the toughest?

15 MR. RUSSELL: Thus far, this is the toughest one that
16 I am aware of.

17 QUESTION FROM THE PRESS: Could you address the
18 question of FEMA approval?

19 MR. RUSSELL: With respect to the FEMA approval,
20 there are two things which must be noted. First, when FEMA
21 identifies a deficiency, a deficiency by itself is sufficient
22 that you no longer have reasonable assurance. That is a word
23 of art. If you use the word "deficiency," you mean you no
24 longer have reasonable assurance in the adequacy of the off-
25 site plans.

1 That has happened at other facilities. Other
2 facilities have been permitted to continue operation with
3 deficiencies. The rules provide for that. So it is not unique
4 in that sense. From the standpoint of the scope, the planning
5 deficiencies that did exist, I would characterize it as
6 probably more significant than some of the other cases but it
7 is not unique procedurally.

8 QUESTION FROM THE PRESS: Would you elaborate a
9 little bit more on the two issues at Shoreham. The third
10 issue, I understand, but the first two, I am not clear.

11 MR. MALSCH: Well, there were three Appeal Board
12 decisions which essentially the Commission simply let stand.
13 The first one relates to whether you can litigate the scope of
14 an emergency planning exercise.

15 The other two are essentially procedural
16 jurisdictional issues that are kind of peculiar to Shoreham.
17 One deals with authority to appoint, to assign particular kinds
18 of litigation to particular docket in the case and the other
19 relates to whether a Board appointed to preside over one part
20 of the docket can dismiss parties from the entire docket.

21 As the Commission pointed out, since it has taken up
22 the whole dismissal sanctions question itself, that case is
23 essentially moot.

24 MR. FOUCHARD: I think in all honestly on the
25 Shoreham, it was neither a step backward nor a step forward.

1 QUESTION FROM THE PRESS: I just want to follow up
2 with Mr. Russell on Shoreham, whether or not you can tell us
3 the status of your readiness inspections at the plant and
4 whether or not today's vote had any effect on the readiness
5 inspections?

6 MR. RUSSELL: We have not actually started the
7 readiness inspections at this point. We are in the process of
8 reviewing and evaluating the licensee's own assessment of its
9 readiness. We issued a report last week on that assessment.
10 There are some issues regarding staffing and some key vacancies
11 which need to be addressed. We have not yet started that
12 inspection activity.

13 MR. FOUCHARD: I am going to take one more. My feet
14 are getting tired. Go ahead.

15 QUESTION FROM THE PRESS: Mr. Russell, I am a little
16 confused by your second to the last answer on emergency
17 planning at Pilgrim. I am aware of the Indian Point case that
18 allowed the plants to continue running with substantial
19 deficiencies but have you ever allowed a plant to re-start
20 after a shutdown ordered by the NRC, to re-start at a time when
21 FEMA has not said that there is adequate assurance of
22 protection of public health and safety?

23 MR. RUSSELL: First off, we have not issued any
24 orders. The shutdown of the Pilgrim Station is under what is
25 called a confirmatory action letter.

1 QUESTION FROM THE PRESS: It is shut down. They
2 cannot re-open that reactor without your permission. Have you
3 ever allowed a reactor to re-open at a time when FEMA does not
4 say that there is adequate assurance of public health and
5 safety?

6 MR. RUSSELL: And the answer that I gave is that that
7 happens frequently, that FEMA identifies deficiencies --

8 QUESTION FROM THE PRESS: And you allow them to keep
9 operating?

10 MR. RUSSELL: That is correct while the deficiencies
11 are being corrected.

12 QUESTION FROM THE PRESS: I have a different
13 question. Have you ever allowed a reactor to re-start after
14 your action has kept it closed? Have you ever allowed a
15 reactor to re-start at a time when FEMA does not say that there
16 is adequate assurance of the protection of public health and
17 safety?

18 MR. RUSSELL: The issue is that FEMA has not been
19 involved in the review since FEMA passed the review to the NRC.
20 The process was one where FEMA identified deficiencies,
21 notified the NRC and the NRC required the licensee to develop
22 an action plan and address those deficiencies.

23 The question regarding whether a reactor operates or
24 does not operate while those deficiencies are being addressed
25 is a matter of discretion for the Commission. That is the

1 principal issue that the Commission decided today, that
2 sufficient progress had been made to permit the facility to
3 start up under the conditions of the controlled phase start-up.

4 QUESTION FROM THE PRESS: I don't mean to sound
5 stubborn, but you haven't answered the question. This is
6 substantially legal different from say the Indian Point case
7 where you have an operating reactor you allowed to continue
8 operating. This is a different question. Have you ever
9 allowed a plant to re-open --

10 MR. RUSSELL: I am trying to answer it as best I can
11 legally and legally if you have a plant with deficiencies, you
12 have the same finding as if you have an interim withdrawal of a
13 prior approval. A deficiency means that there is something
14 deficient in the plan such that you no longer have that
15 assurance.

16 The number of deficiencies, the scope of the
17 deficiencies, that is the issue that is addressed on its merits
18 and that is the decision that the Commission made regarding the
19 situation with FEMA.

20 QUESTION FROM THE PRESS: Would you indulge one more
21 question, Marty? Assuming that Seabrook ponies up the money
22 here, when is the last time the Commission issued a low power
23 permit?

24 MR. FOUCHARD: Just recently to Unit 2 at South
25 Texas, within the last week.

1 QUESTION FROM THE PRESS: But to get a whole plant
2 sort of started for the first time?

3 MR. MALSCH: It is a fairly common occurrence.

4 MR. RUSSELL: All the plants that have been licensed
5 since the accident at Three Mile Island have gone through the
6 low power first and then full power scenario.

7 QUESTION FROM THE PRESS: To try this question one
8 more time, has any plant that has been shut down and doesn't
9 have a FEMA approved plan ever been allowed to re-start?

10 MR. RUSSELL: We have plants that have deficiencies
11 that have taken in some cases upwards of a year to confirm or
12 correct it and those plants have shut down and started up
13 during that time so I believe the answer to your question is
14 yes. Whether there has been one that has involved this type of
15 a Commission decision for a troubled facility, I believe the
16 answer to that is no.

17 MR. FOUCHARD: I think probably the answer is not
18 shut down this long is the answer, no.

19 QUESTION FROM THE PRESS: The staff has twice given
20 exemptions to not have to have a full scale drill. I believe
21 it expires December 31st and the staff has to make a decision
22 as to whether to give them a third and I also believe an
23 unprecedented exemption. First off, is it unprecedented to
24 give three consecutive exemptions and secondly, has the staff
25 made the decision?

1 MR. RUSSELL: I am not the responsible official that
2 makes that decision so I really can't answer it. I do know
3 that an exemption decision scheduler exemption is pending.
4 Routinely, we do grant scheduler exemptions. Whether we have
5 had multiple scheduler exemptions in the past, I am aware of
6 some but I don't know how frequently that occurs.

7 QUESTION FROM THE PRESS: Joe, another bone head
8 question while we have the experts here, the difference between
9 low power licensing and full power, is there a major regulatory
10 regimen that you have to follow? What is normal? How much
11 time does it take for coming from low power?

12 MR. FOUCHARD: All right. After the accident at
13 Three Mile Island, the Commission decided that it would act on
14 all licenses for operation. It subsequently modified that view
15 and said that the staff could act on fuel load and low power
16 licenses up to five percent with the Commission giving final
17 approval for full power licenses.

18 There are exceptions and, of course, this is one of
19 those cases. I am not technical but I think the period from
20 five percent to full power is usually several months. Am I
21 correct on that?

22 MR. RUSSELL: It varies. It has been as short as six
23 weeks to two months. In some cases, it has been as long as
24 more than a year. It depends upon what issues are found.

25 QUESTION FROM THE PRESS: So several weeks then to

1 what?

2 MR. RUSSELL: More than a year.

3 QUESTION FROM THE PRESS: What more does a company
4 have to prove in order to get a full power license?

5 MR. RUSSELL: The principal issue is the testing of
6 the plant at low power, for a boiling water reactor physically
7 bringing it up to pressure and temperature and testing out some
8 of the supporting systems which you can only do with reactor
9 power. A pressurized water reactor can use pump heat to heat
10 up.

11 QUESTION FROM THE PRESS: So it is technical issues?

12 MR. RUSSELL: Yes, it is technical issues associated
13 with design and operation. You get that behind you and then
14 you make the decision to go beyond.

15 QUESTION FROM THE PRESS: I understand there are
16 other issues to go to full power such as emergency planning?

17 MR. FOUCHARD: You are talking about Seabrook?

18 QUESTION FROM THE PRESS: I am talking about Seabrook
19 now.

20 MR. RUSSELL: It is very different for Seabrook.

21 QUESTION FROM THE PRESS: Let's start at the
22 beginning of that question. To go from low power to full
23 power, what more will the company have to do and how long will
24 it take?

25 MR. RUSSELL: Well, in the case of Seabrook that is

1 the major step because the major issue in Seabrook is off-site
2 emergency planning and that whole issue has to be resolved
3 before they can get a full power license.

4 QUESTION FROM THE PRESS: So the Commission still has
5 to take a stand on that?

6 MR. RUSSELL: That is correct. Let me add one thing
7 about the motion pending before the Licensing Board. I
8 indicted it was an on-site emergency planning question and it
9 is in the sense that is the applicant's emergency plan which
10 was at issue but that does include an off-site element because
11 there is an allegation that the applicant doesn't have the
12 capability of assessing the accident accurately from making
13 off-site protective accident recommendations so it is an on-
14 site planning issue but it has an off-site component.

15 [Whereupon, the formal press conference was concluded
16 at 12:31 o'clock p.m.]

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CERTIFICATE OF TRANSCRIBER

This is to certify that the attached events of a meeting of the U.S. Nuclear Regulatory Commission entitled:

TITLE OF MEETING: PRESS CONFERENCE

PLACE OF MEETING: Washington, D.C.

DATE OF MEETING: WEDNESDAY, DECEMBER 21, 1988

were transcribed by me. I further certify that said transcription is accurate and complete, to the best of my ability, and that the transcript is a true and accurate record of the foregoing events.

Marilyn A. Vickers

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