

NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

In the Matter of: PUBLIC MEETING

AFFIRMATION SESSION 81-36

DATE: October 1, 1981 PAGES: 1 - 8
AT: Washington, D. C.

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1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

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4 PUBLIC MEETING
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6 AFFIRMATION SESSION 81-36
7 - - -

8 Nuclear Regulatory Commission
9 Room 1130
10 1717 H Street, N.W.
11 Washington, D.C.
12 Thursday, October 1, 1981

13 The Commission met, pursuant to notice, at
14 3:10 p.m.

15 BEFORE:

16 NUNZIO PALLADINO, Chairman of the Commission
17 VICTOR GILINSKY, Commissioner
18 PETER A. BRADFORD, Commissioner
19 JOHN F. AHEARNE, Commissioner
20 THOMAS ROBERTS, Commissioner

21 ALSO PRESENT:

22 SAMUEL CHILK
23 LEONARD BICKWIT
24 MARTIN MALSCH
25 FORREST REMICK

DISCLAIMER

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1 P R O C E E D I N G S

2 CHAIRMAN PALLADINO: The meeting will please come
3 to order. This is an affirmation discussion session, an
4 open meeting, and I will ask the Secretary to walk us
5 through the items on the agenda.

6 MR. CHILK: The first one is 81-253, financial
7 protection for TMI Units 1 and 2, where the Commission is
8 being asked to act on a proposed Federal Register Notice
9 announcing that the Commission is proposing to grant an
10 exemption from the requirements of 10 CFR 140.11(a)(4) to
11 TMI Units 1 and 2.

12 The Chairman, Commissioners Ahearne and Roberts
13 have approved the order. Commissioner Gilinsky and
14 Commissioner Bradford have disapproved it. Commissioner
15 Gilinsky would have preferred to wait until his requested
16 action for information had been completed.

17 Would you please confirm your votes?

18 (Chorus of ayes.)

19 MR. CHILK: The next one is SECY-81-528, use of
20 Administrative Law Judges as presiding officers in antitrust
21 proceedings.

22 The Commission has unanimously approved this
23 order. The language, each of you made certain modifications
24 and that language has now been worked out by representatives
25 of your offices and the staff.

1 Would you please affirm your vote?

2 (Chorus of ayes.)

3 COMMISSIONER BRADFORD: I take it the end result
4 of what has been done for us is unanimous.

5 (Laughter.)

6 MR. CHILK: SECY-81-566, Diablo Canyon physical
7 security, Governor Brown's motion for an additional counsel
8 and a secretary. The Commission was being asked to respond
9 to a request from Governor Brown to grant access to PG&E's
10 security plan and related documents to an additional
11 attorney and a replacement secretary.

12 The Commission unanimously approved granting
13 access to the secretary and by a three to two vote, with
14 Commissioners Ahearne and Roberts dissenting, approved
15 access by the attorney.

16 Would you please affirm your vote?

17 (Chorus of ayes.)

18 MR. CHILK: SECY-81-529, selection of hearing
19 panel for Part 30 proceeding for Armed Forces Radiobiology
20 Research Institute, in which the Commission is being asked
21 to act on a petition requesting a hearing on NRC's renewal
22 of a 10 CFR Part 30 byproduct materials license.

23 The Commission has - all of you have agreed with
24 the order and with modifications suggested by the Chairman.
25 There have been modifications suggested by Commissioner

1 Ahearne in which Commissioner Roberts has concurred.

2 Commissioners Bradford and Gilinsky have dissented and I

3 have not heard from the Chairman.

4 CHAIRMAN PALLADINO: Could I hear what you
5 suggested?

6 COMMISSIONER AHEARNE: Certainly.

7 MR. BICKWIT: Excuse me, if you have a discussion
8 on this, my recommendation is to close the hearing. Feel
9 free to reject it.

10 (Laughter.)

11 CHAIRMAN PALLADINO: My own personal feeling is
12 that I do not think it is substantive enough to cause it to
13 be closed, but I will be guided by what the Commission wants
14 to do.

15 COMMISSIONER BRADFORD: Well, I must say, the
16 General Counsel is the one who has to defend whatever we
17 wind up doing.

18 MR. BICKWIT: Oh, no, I am not saying you are
19 legally required to --

20 COMMISSIONER BRADFORD: No, no, but I mean, your
21 concern is that there is litigative risk in an open
22 discussion, and you are the one who is going to have to
23 defend the action.

24 MR. BICKWIT: The basis for my recommendation
25 really is not that. It is that the issues that you deal

1 with may be issues that ultimately will be assigned to a
2 Board, and the best way for you to communicate with that
3 Board is through an order rather than for the Board to have
4 access to a transcript of your discussions and your thinking
5 on the very issues that it might be called upon to resolve.
6 and I just think it is a better way to do business to
7 communicate by order.

8 COMMISSIONER AHEARNE: I would go along with Len's
9 argument.

10 CHAIRMAN PALLADINO: Are you very strong on your
11 position?

12 COMMISSIONER AHEARNE: Yes.

13 (Laughter.)

14 CHAIRMAN PALLADINO: Why not bypass that and come
15 back?

16 MR. CHILK: Let me note that the next one, which
17 is 85-565, TMI restart, will also, I believe, require a
18 discussion if the Commission desires to close on that one as
19 well. We would need a short notice for it to do so,

20 CHAIRMAN PALLADINO: I think on this one the
21 issues have to do with an order and what we want to include
22 in it. My own feeling, again, would be to keep it open.

23 MR. BICKWIT: My recommendation is to close, but it
24 is not nearly as strong as on the last one. Again, I think
25 it is best to communicate with the parties to this

1 proceeding by order. Not to flag for the parties which
2 Commissioners are interested in what particular matters.
3 But I must say, I do not see any serious damage being done
4 by leaving it open.

5 But the recommendation is to close.

6 CHAIRMAN PALLADINO: What are the wishes of the
7 Commission?

8 COMMISSIONER BRADFORD: I do not have strong
9 feelings either way, and I guess that means I would rather
10 keep it open.

11 COMMISSIONER AHEARNE: That is fine with me.

12 CHAIRMAN PALLADINO: All right. Can we discuss
13 that now?

14 MR. CHILK: Yes, sir.

15 CHAIRMAN PALLADINO: The issue that I wanted to
16 discuss was a question raised by Commissioner Gilinsky to
17 set forth in the order a number of names of individuals that
18 should be included in the order for the proposed
19 presentation by the parties. I wanted to get a little feel
20 why this should be, and also find out if the reasons given
21 were not already handled.

22 Maybe, Victor, I might ask you what the reasons
23 were.

24 COMMISSIONER GILINSKY: I thought I was agreeing
25 that the other be discussed in public session.

1 (Laughter.)

2 COMMISSIONER GILINSKY: I will go along with
3 whatever the Commission wants to do.

4 COMMISSIONER BRADFORD: I would be equally happy
5 if you would rather discuss this --

6 CHAIRMAN PALLADINO: Would you rather discuss it
7 in closed session?

8 COMMISSIONER GILINSKY: I think I would.

9 COMMISSIONER AHEARNE: I will go along with that.

10 CHAIRMAN PALLADINO: We will have to have a short
11 notice for the meeting to close - short notice to close the
12 meeting.

13 COMMISSIONER AHEARNE: Aye.

14 CHAIRMAN PALLADINO: Aye.

15 COMMISSIONER BRADFORD: Aye, as to both topics.

16 COMMISSIONER AHEARNE: Yes, we might as well.

17 CHAIRMAN PALLADINO: Now, there is one more item,
18 I think?

19 MR. CHILK: No, those are the last two items.

20 CHAIRMAN PALLADINO: Was there not another?

21 COMMISSIONER BRADFORD: We rescheduled Farley, I
22 guess.

23 CHAIRMAN PALLADINO: Which ones did we not vote on?

24 MR. CHILK: We had rescheduled 532 and 544, and
25 had not voted on 529 and 565.

1 CHAIRMAN PALLADINO: How about 566?

2 COMMISSIONER AHEARNE: That is Governor Brown.

3 CHAIRMAN PALLADINO: So, I guess then we are ready
4 to close the meeting.

5 (Whereupon, at 3.15 p.m. the Commission proceeded
6 in closed session.)

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NUCLEAR REGULATORY COMMISSION

This is to certify that the attached proceedings before the
COMMISSION MEETING

in the matter of: PUBLIC MEETING - AFFIRMATION SESSION 81-36

Date of Proceeding: October 1, 1981

Docket Number: _____

Place of Proceeding: Washington, D. C.

were held as herein appears, and that this is the original transcript thereof for the file of the Commission.

M. E. Hansen

Official Reporter (Typed)

M. E. Hansen

Official Reporter (Signature)