

NUCLEAR REGULATORY COMMISSION

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COMMISSION MEETING

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In the Matter of: PUBLIC MEETING

DISCUSSION OF PART 170 -- NEW FEE  
SCHEDULE BASED ON REEXAMINATION OF  
MANPOWER ESTIMATES

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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4 Public Meeting

5 DISCUSSION OF PART 170 -- NEW FEE SCHEDULE BASED ON  
6 REEXAMINATION OF MANPOWER ESTIMATES

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8 Room 1130  
9 1717 H Street, N.W.  
10 Washington, D. C.  
11 Monday, 2 November 1981.

12  
13 The Commission met, pursuant to notice, at 2:02

14 p.m.,

15 BEFORE:

16 NUNZIO PALLADINO, Chairman  
17 VICTOR GILINSKY, Commissioner  
18 PETER BRADFORD, Commissioner  
19 JOHN AHEARNE, Commissioner  
20 THOMAS ROBERTS, Commissioner

## 1 ALSO PRESENT:

2 SAMUEL J. CHILK  
3 LEONARD BICKWIT  
4 FORREST REMICK  
5 WILLIAM DIRCKS  
6 KEVIN CORNELL  
7 W. MILLER  
8 D. DONOGHUE  
9 R. FONNER  
10 MR. HOLLOWAY  
11 MR. TRINER

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DISCLAIMER

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P R O C E E D I N G S

(2:02 p.m.)

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3 CHAIRMAN PALLADINO: The meeting will please come  
4 to order. The topic of this afternoon's meeting is a  
5 discussion of Part 170, New Fee Schedule Based on  
6 Reexamination of Manpower Estimates.

7 This is a public meeting, and we will turn it over  
8 to the EDO for discussion of this item.

9 MR. DIRCKS: What we would like to do is not get  
10 into a great deal of detail on the technical paper, Mr.  
11 Chairman. We think we have covered the background in  
12 previous fee schedules and the items that led up to the  
13 establishment of the fee schedule.

14 I think it is important to note, too, the interest  
15 that the Office of Management and Budget has in our current  
16 efforts to develop a fee schedule that will bring in  
17 resources to the agency.

18 What we would like to do is basically summarize  
19 the differences that are in this fee schedule that we are  
20 proposing to the Commission, as opposed to the previous fee  
21 schedule. We would like to concentrate on the differences  
22 in very brief form, and then answer the Commission's  
23 questions.

24 CHAIRMAN PALLADINO: Okay.

25 MR. DIRCKS: Bill Miller, who is head of the

1 Licensing Fee Branch in the Office of Administration has  
2 just two or three slides he would like to discuss with the  
3 Commission. And then, as I said, we would like to then deal  
4 with questions.

5 Bill?

6 MR. MILLER: I will go ahead then, Bill.

7 The paper which you have been furnished describing  
8 this proposed fee schedule contains a lot of background  
9 information, a lot of information describing the current fee  
10 schedule, and comparing the two. So I will not go into a  
11 lot of detail.

12 The proposal which you have before you in this  
13 paper is designed to simplify the fee schedule, and to  
14 update the fee schedule as required by OMB, as Bill has  
15 said, as set forth in Circular A-25.

16 What we have proposed here is not a new approach  
17 to fees. In fact, what we have done is followed the  
18 Commission's fee guidelines which the Commission issued in  
19 1978, and which have been into court and approved by the  
20 courts.

21 In this particular paper -- and, Doug, would you  
22 please flash up slide number one?

23 (Slide.)

24 In this particular paper, the most significant  
25 thing that we have done is to revise the labor rates for the

1 program offices. These are offices such as NRR, I&E, NMSS.  
2 We have done this based on pay increases in 1978, 1979,  
3 1980, and 1981, and the inflation rates which have been  
4 provided to us by the Office of the Comptroller.

5         The second thing we have done is to remove the  
6 ceiling which the Commission -- or we are proposing to  
7 remove the ceiling which the Commission imposed in 1978.  
8 There is a ceiling on reactor licenses, reactor amendments,  
9 and a ceiling on materials' fuel cycle licenses. This rule,  
10 as proposed, would remove those ceilings.

11         We are also proposing to assess fees for reactor  
12 amendments, and other required approvals, based on actual  
13 costs rather than, as they are now, which is a fixed-fee  
14 method. We have six classes of amendments with fixed fees.  
15 We are proposing to put them on an actual-cost basis.

16         The next thing we are proposing to do, which is  
17 item number four, is to charge for non-routine inspections.  
18 In 1978, the Commission imposed fees for inspections, but  
19 limited the fees to routine inspections. We are proposing  
20 here to charge fees for all inspections.

21         The final thing, as you will see on item number  
22 five up there, is we would revise our billing procedures for  
23 the actual-cost cases. That is, we would bill as the work  
24 progresses at six-month intervals, rather than as we do  
25 presently which is to collect the entire fee at the time the

1 CP or the OL is issued.

2           Basically that is what we are proposing in this  
3 fee schedule.

4           Doug, would you flash up the second vu-graph?

5           (Slide.)

6           I think it is important that the Commission see  
7 what impact the fee schedule would have. For example, if  
8 you look at the second line for an OL review -- and these  
9 are typical of what would happen -- you will see that under  
10 the current schedule fees for OLs range from roughly  
11 \$800,000 to \$1 million.

12           The proposed range, which is cost, is roughly \$2  
13 million to \$2.5 million. So there is an impact. Primarily  
14 that fee has increased because of the increase in manpower  
15 since we developed the schedule in 1977, the current  
16 schedule.

17           COMMISSIONER BRADFORD: I had always understood  
18 that we put a lot more manhours into an OL review than we  
19 did in a CP review. Is that wrong?

20           MR. MILLER: There is not a great deal of  
21 difference. We are told that the manhours for a CP range  
22 from about 14 manyears to about 21. For an OL it ranges  
23 from about 16.5 to about 19.

24           MR. DIRCKS: We have not done a CP in so long--

25           (Laughter.)



1           COMMISSIONER BRADFORD: That is a hypothetical  
2 number? Well, maybe that is right. That is, that currently  
3 that would be accurate, but Roger Mattson, who at the time  
4 was doing a manhours' review within NRR of some sort was  
5 very clear on the point that the plants now undergoing OL  
6 reviews would be spending about three times as many manhours  
7 on their OL reviews as had been spent on their CP reviews.

8           I guess what you are saying here is that if we  
9 ever did a full CP review again, it would be much more  
10 extensive?

11          MR. DIRCKS: These are based on actual investment  
12 of manhours in the project. Is that right?

13          MR. MILLER: That is correct.

14          MR. DIRCKS: These are estimated, and of course we  
15 have much more recent experience with the OLs than we do  
16 with the CPs.

17          MR. MILLER: The OL manpower data is pulled  
18 directly from the computer as we input the data. As Bill  
19 has indicated, the CP data, some of it is dated.

20          COMMISSIONER BRADFORD: But are you using actual  
21 CP data? Or estimates of the number of manhours you think  
22 it would take to do a CP review today?

23          MR. MILLER: This is data that is in the  
24 computer. It was actual. It may be dated, but it was  
25 actual at the time.

1           Now when we looked at 1977 just for comparison,  
2 the manpower required for a CP was 6.6. For an OL it was  
3 6.2. That is roughly four or five years ago.

4           COMMISSIONER BRADFORD: There is something out of  
5 line somewhere, then, but I do not know how to pursue it  
6 without talking to someone like Roger or Harold.

7           CHAIRMAN PALLADINO: I gather that even though  
8 these are your expected ranges, they would be on actual  
9 manpower used, staffpower?

10          MR. MILLER: That is correct. In some instances  
11 they could possibly exceed this.

12          CHAIRMAN PALLADINO: So maybe this range might  
13 turn out not to be correct?

14          MR. MILLER: These ranges, I might add, were  
15 developed based on pulling a specific number of CPs or OLs  
16 from the computer. I do not recall how many -- six or eight  
17 examples we came out with? I do not recall exactly, do  
18 you?

19          MR. HOLLOWAY: No.

20          MR. MILLER: It was a specific number of cases.

21          MR. DONOGHUE: The range is primarily to put them  
22 on notice that this a liability they could have to the NRC,  
23 because the actual liability would be whatever the actual  
24 costs are.

25          MR. DIRCKS: It might be worthwhile to have Ed

1 Triner, who pulled this data together as a result of the  
2 computer analysis we have done, to go into it a bit.

3 MR. TRINER: We stay relatively current on the  
4 expenditure of hours for the various kinds of licensing  
5 processes. With CPs of course we have historical data, but  
6 in terms of actuals currently we had to project. The  
7 projection on that shows to be less than our actual OLs.  
8 Our OLs, as Bill mentioned, that we currently have  
9 empirically run somewhere between 16 and 19 professional  
10 staff years, and somewhere around 4/10ths times that for up  
11 to 27.6 total staff years to handle the administrative  
12 support for the clerical, supervisory, and so forth.

13 CHAIRMAN PALLADINO: When you say "27.6," is that  
14 total including the professional?

15 MR. TRINER: That is correct. That is  
16 professional and overhead for the OL. Our CP estimates are  
17 slightly less, but the CPs are estimates that we projected  
18 through the years. We do not have the same kind of  
19 empirical data that we do for the OL.

20 COMMISSIONER BRADFORD: What are the comparable  
21 numbers for CPs?

22 MR. TRINER: The CPs as of the data that we had a  
23 couple of years ago -- of course it really has not changed--  
24 was 17.4.

25 COMMISSIONER BRADFORD: 17.4?

1 MR. TRINER: Staff years per CP for NRR.

2 COMMISSIONER AHEARNE: Is that with or without  
3 overhead?

4 MR. TRINER: Sir?

5 COMMISSIONER AHEARNE: With or without the  
6 overhead?

7 MR. TRINER: This is with the overhead.

8 COMMISSIONER BRADFORD: That is total staff  
9 years.

10 MR. TRINER: This is comparable to the Ols which  
11 is substantially more.

12 COMMISSIONER AHEARNE: That compares to the 27?

13 MR. TRINER: That is correct. The Ols are  
14 substantially more. And of course the increase has been  
15 very great as a result of TMI where there has been a  
16 considerable amount of increased effort over what we have  
17 been doing in the past.

18 COMMISSIONER BRADFORD: Now that 17.4 is the  
19 projected figure?

20 MR. TRINER: That is projected.

21 COMMISSIONER BRADFORD: That is not the historical  
22 figure?

23 MR. TRINER: Well, it is historical with some  
24 projections; but we do not have enough data to be able to  
25 determine what it actually would be.

1 COMMISSIONER BRADFORD: But it is the number which  
2 underlies the "proposed range" column on that slide?

3 MR. TRINER: Is that correct, Bill? That, I am  
4 not sure of.

5 MR. MILLER: This is the data that the NRR, Hugh  
6 Thompson's staff, provided us. This was their estimates  
7 that they gave us just a few months ago.

8 MR. TRINER: In that case it would be. In that  
9 case it would be, because we are using the same basic data.

10 CHAIRMAN PALLADINO: That does not look right.  
11 The 27.6 as compared to 17.6 would show a bigger difference  
12 in the range than this indicates. I do not know if that is  
13 the basis or not?

14 MR. DIRCKS: You have to add in contract funds.

15 MR. TRINER: That is correct. We would have much  
16 more contract funds for the -- this does not include  
17 equivalent staff years. "Equivalent" being the amount of  
18 staff years that we would buy as a result of program support  
19 dollars.

20 MR. MILLER: And there is up to about a half a  
21 million dollars in contractual costs.

22 COMMISSIONER BRADFORD: And those are in these  
23 numbers?

24 MR. MILLER: Yes, they are in our numbers. In the  
25 numbers we have given you there, we have included manpower

1 from all offices that are involved and contractual costs.

2           COMMISSIONER BRADFORD: And what you are saying is  
3 that those contractual staff years fall more heavily on the  
4 CPs or OLs?

5           MR. MILLER: The data I was provided, they fall  
6 more heavily in the CP area.

7           Jim, you have a breakdown of it, don't you, if you  
8 want to get into the details.

9           MR. TRINER: That would be consistent, because you  
10 have a lower in-house staff here, and a higher program  
11 support cost for the CP, the aggregate of which would make  
12 it closer to the OL cost.

13           COMMISSIONER BRADFORD: You are saying that we are  
14 doing proportionally more of the CP reviews on a contractual  
15 basis than of the OL review?

16           MR. TRINER: That was for the projection. We  
17 actually do not have that much data at the present time.

18           COMMISSIONER BRADFORD: Why would you project it  
19 that way instead of assuming that it would be about equal  
20 for the two classes of license?

21           MR. TRINER: I believe that the reason is that,  
22 given the limited manpower resources, we would probably want  
23 to put it closer to the operating license.

24           MR. MILLER: A lot of your environmental work is  
25 done, I think, by the laboratories and so forth outside in

1 the CP area. That would be one of your answers. Isn't that  
2 right, Ed?

3 MR. TRINER: Exactly.

4 MR. MILLER: An awful lot of your work is done  
5 outside.

6 COMMISSIONER BRADFORD: So that onto that 17.4  
7 total staff years you have to add some --

8 MR. TRINER: Program support dollars, or  
9 equivalent bought-staff years from the labs, or from  
10 whatever source.

11 COMMISSIONER BRADFORD: I see.

12 CHAIRMAN PALLADINO: What is our level of  
13 confidence in the system that documents the staff support  
14 spent on specific dockets?

15 MR. DONOGHUE: I think right now they are pretty  
16 good in NRR. I think we have a high level of confidence in  
17 NRR's reporting system. It is good.

18 COMMISSIONER AHEARNE: How about I&E?

19 MR. DONOGHUE: I think I&E is the same way.

20 MR. MILLER: As you know, each of these cases are  
21 assigned a docket number. The Staff is required on a weekly  
22 basis to charge their time to a particular docket. We can  
23 only assume that they are doing it.

24 COMMISSIONER AHEARNE: I was really asking a  
25 different question. Not how is it supposed to run; I was

1 asking what is it -- I was trying to follow up on the  
2 Chairman's question, particularly with respect to I&E. What  
3 is the confidence that the numbers are reasonably good?

4 MR. MILLER: I have assumed that they are good  
5 numbers.

6 COMMISSIONER AHEARNE: That is an assumption.

7 MR. DIRCKS: I think the burden is on us,  
8 because-- you can correct me if I am wrong -- if we cannot  
9 justify and substantiate these items to the Licensee, then  
10 we are in trouble.

11 COMMISSIONER AHEARNE: What I was really asking is  
12 if any of you have a sense of having confidence in them by  
13 means of there are never any problems with the manpower  
14 numbers; you do not have to go back and essentially shake  
15 them down? Have checks been run against say I&E, and the  
16 I&E numbers are really good and firm?

17 MR. MILLER: Well, these numbers, we have worked  
18 with the I&E and the NRR and so forth, Dan and I over the  
19 years, and I feel that today the numbers are pretty good  
20 numbers. We have tried to work with people and explain the  
21 necessity.

22 COMMISSIONER AHEARNE: I know.

23 MR. MILLER: You realize we have been in court,  
24 and --

25 MR. TRINER: You have really got two dimensions.



1 You have got the manpower accounting methodology. Then you  
2 also have accounting for your program support dollars.  
3 There are different methods for capturing this. NRR is an  
4 example where we have a reasonably good manpower accounting  
5 system. In their program support dollars, about 50 percent  
6 of their lab effort is under the lab licensing program.  
7 That is very good. The other 50 percent they are working  
8 on. They have a fairly good model, and they are working on  
9 it now.

10 If there would be an error, the systematic error  
11 would be to charge less rather than more, because whatever  
12 is charged has a very finite and a good audit trail. And if  
13 there is a question, then they would tend not to charge.

14 COMMISSIONER AHEARNE: Ed, by the fact you did not  
15 mention I&E, is that because you do not want to?

16 MR. TRINER: No, sir. I&E program support of  
17 course is at the noise level. In terms of their manhour  
18 accounting system, they have a good manhour accounting  
19 system that charges -- Their manhour accounting is easier to  
20 charge because there isn't any ambiguity about the recipient  
21 of the service. Whether it is perceived that way is  
22 something else again, but it is easier to do than NRR where  
23 the generic work by definition would not be charged.

24 COMMISSIONER AHEARNE: So are you saying that the  
25 people who do the manpower accounting, keeping track of it,

1 are not having trouble getting the system to give results  
2 which make sense and appear to be reproducible, logical,  
3 consistent?

4 MR. TRINER: That is correct.

5 COMMISSIONER GILINSKY: Over the years, I&E has  
6 had a pretty decent system for keeping track of its work at  
7 a time, I remember, when the NRR system was in a great state  
8 of confusion. I&E seemed to be able to account for where  
9 its inspectors were going.

10 MR. TRINER: I think it has improved over the  
11 years.

12 MR. MILLER: One thing I think that is important,  
13 when we get data chargeable to one of these cases, if we  
14 cannot tie it down, we do not include it in the charge.

15 CHAIRMAN PALLADINO: Are travel costs treated  
16 separately? Or are they thrown in the overhead?

17 MR. MILLER: Are what?

18 CHAIRMAN PALLADINO: Travel costs for any of this  
19 work.

20 MR. MILLER: Travel costs are included in the  
21 overhead.

22 CHAIRMAN PALLADINO: They are in the overhead.

23 COMMISSIONER GILINSKY: Let me ask: If you add  
24 all of these items up, what fraction of the agency's  
25 activities are covered?

1 MR. MILLER: Less than 10 percent.

2 COMMISSIONER GILINSKY: Where is the other 90  
3 percent?

4 MR. DONOGHUE: Research.

5 (Laughter.)

6 MR. DONOGHUE: More than 50 percent are generic  
7 items.

8 MR. MILLER: More than 50 percent is research. We  
9 include -- we have a film here I could show you.

10 COMMISSIONER GILINSKY: I thought you were going  
11 to say about 25 or 30.

12 MR. MILLER: It is about 8 percent, really, 7 or 8  
13 percent.

14 CHAIRMAN PALLADINO: You are talking about going  
15 up to \$15 million did you say?

16 COMMISSIONER AHEARNE: Well, but part of that is  
17 sweeping up some back expenses.

18 COMMISSIONER GILINSKY: But if you include -- I  
19 guess I am a little surprised. If you include I&E's  
20 efforts, and if you include amendments, and presumably  
21 topical reports and so on which are in here somewhere --

22 COMMISSIONER AHEARNE: It is getting to the point  
23 Mr. Bevel kept making. Very little of the agency is focused  
24 on the licensee.

25 COMMISSIONER GILINSKY: And then you had a good

1 answer.

2 (Laughter.)

3 CHAIRMAN PALLADINO: How about work on --

4 COMMISSIONER GILINSKY: I thought we had it up to  
5 20 percent or something?

6 COMMISSIONER AHEARNE: I suspect part of the  
7 problem we are seeing in the percentages is that we are  
8 really not getting true costs recovered.

9 CHAIRMAN PALLADINO: And there are items such as  
10 generic items. Are they covered in here?

11 MR. MILLER: No they are not. There are many  
12 things the court has said we must exclude. To include  
13 something you must be able to identify it with a case. This  
14 is a little bit of what Ed was talking about. Things like  
15 research we cannot include. Standards we cannot include.  
16 Code work, generic. So there are many, many broad  
17 categories with large amounts of dollars that we could not  
18 include.

19 COMMISSIONER GILINSKY: Half of the agency's  
20 expenses are in research and other offices.

21 MR. MILLER: Yes.

22 COMMISSIONER GILINSKY: I guess what I do not see  
23 is why isn't the larger part of that other half here?

24 MR. MILLER: Well, if you look at some of the  
25 activities -- for example, in NRR a lot of their effort is

1 devoted to things other than processing specific  
2 applications. It is a generic licensing effort. Take Three  
3 Mile Island, for example.

4 COMMISSIONER GILINSKY: Why would that not be  
5 chargeable to that licensee?

6 CHAIRMAN PALLADINO: I gather that the court  
7 requires that they be identifiable with a particular  
8 licensee.

9 MR. MILLER: Well, part of the answer is that the  
10 Commission policy was at the time that incidents were  
11 excluded.

12 CHAIRMAN PALLADINO: What were?

13 MR. MILLER: Incidents.

14 COMMISSIONER GILINSKY: Are they excluded here?

15 MR. MILLER: We are proposing now to include  
16 them.

17 COMMISSIONER GILINSKY: And now you are telling me  
18 that --

19 MR. DIRCKS: But I think if you take a look at the  
20 agency's budget, first of all we are figuring on payroll --  
21 well, let's go back to dollars. Of the \$500-or-so-million,  
22 no, it is less than that

23 COMMISSIONER AHEARNE: About \$465.

24 MR. DIRCKS: \$460 million we have,  
25 \$200-and-some-odd million are in research. That is just

1 then pulled to the side and we are not keeping track of that.

2           Then you look at the program support dollars, and  
3 we are talking a good fraction of that being included in  
4 this. Plus, in the payroll, you are talking of the  
5 inspectors that we have, the total inspection staff is  
6 460-some-odd actual inspectors.

7           In the NRR --

8           COMMISSIONER GILINSKY: Let's see. Aren't you  
9 counting the overhead on those inspections?

10          MR. DIRCKS: Yes, we do.

11          CHAIRMAN PALLADINO: I want to get back to what  
12 that overhead includes.

13          MR. DIRCKS: Usually what we do in NRR is count  
14 1.4 percent on top of the --

15          CHAIRMAN PALLADINO: Does that include the OTC and  
16 all the other things?

17          COMMISSIONER AHEARNE: But in theory every  
18 inspector's time ought to be -- most of it ought to be able  
19 to be charged to a specific licensee, should it not?

20          COMMISSIONER GILINSKY: Well, just to sharpen --

21          MR. DONOGHUE: Well, I guess in the area of 60  
22 percent, probably. 40 percent of the time he is working in  
23 the office --

24          COMMISSIONER GILINSKY: Well, I would think it is  
25 100 percent.

1 MR. DONOGHUE: We include the writing of the  
2 report, the preparation to go out, and the actual visit.

3 COMMISSIONER AHEARNE: But just given what I&E's  
4 charge is, it would seem that a high percentage --

5 COMMISSIONER GILINSKY: You would not count, say,  
6 training.

7 COMMISSIONER AHEARNE: No, but nevertheless a high  
8 percent of I&E.

9 COMMISSIONER GILINSKY: Right.

10 COMMISSIONER AHEARNE: That is why I was asking  
11 I&E's tracking system on that.

12 COMMISSIONER GILINSKY: I think that is very  
13 important. But to sharpen this up, though, it looks as if  
14 of the other part, the non-research part, we end up counting  
15 something like 20 percent, which sounds like a pretty low  
16 fraction.

17 MR. DIRCKS: In overhead of course we are only  
18 including the technical overhead related to the I&E  
19 function. We do not include the overhead related to what in  
20 business is called the "general overhead," the payment of ad  
21 men, or --

22 CHAIRMAN PALLADINO: You do not include those?

23 MR. DIRCKS: No, we do not include those.

24 CHAIRMAN PALLADINO: I see.

25 COMMISSIONER AHEARNE: Well, you certainly have to

1 include part of a slice of that.

2 MR. DIRCKS: We include the secretarial staff, the  
3 branch chiefs, and so on.

4 COMMISSIONER GILINSKY: Why is it not fair to  
5 include some slice of the rest of it? Obviously the man in  
6 the field cannot function --

7 MR. MILLER: We do.

8 MR. DIRCKS: You include the ad men overhead?

9 MR. MILLER: We have two ways to go here. One is  
10 to accumulate, as we have talked about, the hours that are  
11 charged to a case, the docket number, and the contractual  
12 services that can be directly related to that case.

13 Then in addition to that, we develop a  
14 professional staff rate, so much per hour, so much per  
15 year. Included in that are the salary, benefits, et cetera,  
16 supervision, clerical, rent, lights, paper, a proportionate  
17 share of the comptroller's office, administration, the legal  
18 counsel, et cetera. So, yes, we bill that rate the same way  
19 General Motors bills her consultant's rates.

20 CHAIRMAN PALLADINO: Has that been examined  
21 recently in terms of new benefits?

22 MR. MILLER: In here, one of the first items I  
23 talked about, if you will recall, we revised the labor  
24 rates. What we did there was to add an inflation factor for  
25 each of the years since 1978, and the pay raises for those.



1 So those are the adjustments we made in the labor rates.

2 CHAIRMAN PALLADINO: How about the benefits? I  
3 gather those have changed.

4 MR. MILLER: Pardon?

5 CHAIRMAN PALLADINO: Have benefits not changed in  
6 the last several years? I do not know if that is  
7 significant.

8 MR. MILLER: I do not know that they have changed  
9 appreciably, Mr. Chairman.

10 COMMISSIONER AHEARNE: I do not understand. It  
11 sounds like what you did is take an old rate and apply a  
12 percentage of changes.

13 MR. MILLER: That is exactly what we did.

14 COMMISSIONER AHEARNE: I do not understand why you  
15 do not take a slice cut of what we are actually paying. We  
16 know how many professional staff we have. We know what the  
17 rates are.

18 MR. MILLER: I am sorry, Mr. Commissioner?

19 COMMISSIONER AHEARNE: I am saying, I do not  
20 understand why you took that approach. Why do you not take  
21 the salary and benefit costs we currently have and determine  
22 what the professional-year cost is from what we are actually  
23 paying? Why did you take an old rate and put percentages on  
24 it?

25 MR. MILLER: Well, I really think it would come

1 out roughly the same. We talked with Ed and the  
2 Comptroller's office and so forth about this. We took the  
3 '78 rate that was developed based on salary, benefits, et  
4 cetera. The only things that had changed appreciably were  
5 the pay increases and the inflation factors, and we added  
6 those in. Did I understand your question?

7 COMMISSIONER AHEARNE: (a) There are other things  
8 that have changed in each office. There has been a  
9 redistribution of other people. There may have been changes  
10 in grade. But on top of that, it seems to me you are trying  
11 to get by calculation something you can get directly.

12 MR. MILLER: We could examine that possibility.

13 CHAIRMAN PALLADINO: Actually, my understanding is  
14 that you used a very modest inflation rate of 6 to 6.5  
15 percent.

16 MR. MILLER: We did.

17 CHAIRMAN PALLADINO: It doesn't seem to be in  
18 keeping with what has happened. But then you ignored cap  
19 changes, the caps on the pay. I don't know if that has a  
20 significant impact or not. The effect may be about the  
21 same, but I am thinking of presenting a defensible position  
22 on whatever we do as much as I am in getting --

23 MR. DIRCKS: The 6 to 6.5 percent would be about  
24 what the federal employees receive.

25 COMMISSIONER AHEARNE: But why bother doing it by

1 calculation when you can do it directly? We are actually  
2 paying people. We have a work force which we paid in '81.  
3 I don't understand why you don't take the salary and  
4 benefits that are associated with what we actually paid.

5 MR. MILLER: Is your question: Why don't we take  
6 the individuals who work on cases?

7 COMMISSIONER AHEARNE: No. Whether it is  
8 individuals who work on cases or what, you have got a  
9 salary/benefit portion of the budget. No matter how you  
10 break it out, you must have gone through a method in '77 to  
11 break it out.

12 MR. MILLER: We did.

13 COMMISSIONER AHEARNE: I do not understand why you  
14 do not apply that to the actual costs in '81, as opposed to  
15 trying to calculate it up?

16 MR. MILLER: We could have. We could have; yes.  
17 I really do not personally think it would change it  
18 significantly.

19 COMMISSIONER AHEARNE: It might not, but it seems  
20 to be the direct approach as opposed to the indirect  
21 approach.

22 CHAIRMAN PALLADINO: Yes, and I think it is a more  
23 defensible approach, which is one of the things that we may  
24 have to face in defense of what we do.

25 MR. MILLER: I guess one of the reasons we did

1 not, it would have required us to go back and to reassess  
2 what all of these people were working on. And you had the  
3 problem that things are in sort of a state of transition at  
4 this point.

5 CHAIRMAN PALLADINO: When you calculate these  
6 costs, suppose there is employee X who spends so many  
7 hours. We don't use his salary or her salary?

8 MR. MILLER: We take an average salary.

9 CHAIRMAN PALLADINO: You take an average for that  
10 level of individual? Or an average for all the professional  
11 staff?

12 MR. MILLER: We take an average for the  
13 professional staff.

14 CHAIRMAN PALLADINO: I see.

15 MR. DIRCKS: It is tied in with the budget  
16 process. We budget by professional staff year, and we claim  
17 a salary on the basis of a so-called "professional staff  
18 year." I guess that is how we are calculating. We just  
19 take the manhours.

20 CHAIRMAN PALLADINO: But you have different rates  
21 for different levels of professional people.

22 MR. DIRCKS: Just the professional staff year.

23 COMMISSIONER AHEARNE: But if the manpower  
24 reporting system is as good as has been described, then I am  
25 not sure why --

1 MR. DIRCKS: No, no, no. That would get very  
2 complicated. What we are doing here is aggregating the  
3 whole professional staff years and multiplying by a flat  
4 rate. If you are saying that on any one particular case we  
5 had a GS-13 working for X number of hours, and a GS-15 for  
6 so many hours, then we are going to get into a very  
7 complicated --

8 COMMISSIONER AHEARNE: That is not what I meant.

9 CHAIRMAN PALLADINO: But you could get an average  
10 based on the salaries.

11 MR. DIRCKS: Yes. I think what we are trying to  
12 do is make it somewhat coincident in the budget process. We  
13 go to OMB with a certain assumption on what a professional  
14 staff year costs us. And then we just multiply it out to  
15 get our total personal salary benefit budget from OMB.

16 COMMISSIONER AHEARNE: But I think you are going  
17 to have to perhaps have a little better defense if you get a  
18 court challenge on the justification for this.

19 MR. DIRCKS: We used the same technique and  
20 survived.

21 COMMISSIONER AHEARNE: Yes, but in '77 you had  
22 done the calculation directly. This time you have not.  
23 This time --

24 MR. MILLER: But not on a staff year --

25 COMMISSIONER AHEARNE: No, no. I am not talking

1 about the staff; I am talking about the average. Because,  
2 for example, I look across your tables here and you have got  
3 the same average percentage increase in all of the items for  
4 every office. So you are saying that NRR has increased the  
5 same way I&E has increased, the same way NMSS has increased,  
6 the same way the Licensing Boards have increased.

7 MR. MILLER: Well, that is true. That is an  
8 actual factor that we have provided, because you would apply  
9 in '78 the same salary increase for each of the offices.

10 COMMISSIONER AHEARNE: The average professional  
11 staff salary is going to have had the same percentage  
12 increase as every one of those offices, assuming there is  
13 absolutely no change in the mix or the grade structure in  
14 each of those offices.

15 COMMISSIONER GILINSKY: But isn't that sort of  
16 getting down --

17 CHAIRMAN PALLADINO: To a fine point.

18 COMMISSIONER AHEARNE: The point is, why calculate  
19 from a point four years ago, rather than calculate it  
20 directly?

21 CHAIRMAN PALLADINO: The reason for my question is  
22 to present the defensible picture, because I think we are  
23 going to be challenged on a lot of these, and I would hate  
24 to see nitpicking over percentages.

25 MR. DIRCKS: I think we could pick the assumed

1 costs of the professional staff year in '77 and add on the  
2 pay raises.

3 COMMISSIONER BRADFORD: What turns out to be --

4 MR. MILLER: I think it turns out to be the same.

5 CHAIRMAN PALLADINO: We may be conservative.

6 MR. MILLER: I think we are.

7 COMMISSIONER BRADFORD: What turns out to be the  
8 number you multiply 27.6 by? Or is not the way you make the  
9 calculation?

10 MR. MILLER: Yes, it is. For NRR it is what, Jim,  
11 about --

12 MR. HOLLOWAY: \$50 an hour.

13 MR. MILLER: It is slightly different for I&E and  
14 the different offices.

15 COMMISSIONER BRADFORD: But it works out on  
16 balance to be about \$90,000?

17 MR. MILLER: About \$90,000.

18 COMMISSIONER AHEARNE: According to the back, it  
19 is \$91,504.

20 COMMISSIONER BRADFORD: That is for --

21 MR. MILLER: For a professional. \$90,000. But  
22 that is not what you multiply the 27.6 by? That is what you  
23 multiply the 16 to 19 by?

24 MR. MILLER: Yes. Those are the actual computed  
25 charges there that you see up there. The way that \$28,000

1 came about is you took your \$90,000 times the hours that we  
2 gave them, the manyears.

3 COMMISSIONER BRADFORD: Yes. And then you used  
4 some other number for the nonprofessional?

5 MR. MILLER: No. That rate of \$90,000 for the  
6 professional takes into account everything from lights,  
7 paper, supervision, management, everything. That is all  
8 billed travel. That is all billed into that rate.

9 COMMISSIONER BRADFORD: Okay.

10 COMMISSIONER GILINSKY: Could I just ask? What is  
11 the NRR budget for '82, if I may display my ignorance in  
12 front of John here.

13 (Laughter.)

14 MR. DIRCKS: In terms of people? Ed?

15 COMMISSIONER GILINSKY: Just a total budget.  
16 People and technical services.

17 MR. TRINER: What was the question?

18 COMMISSIONER GILINSKY: I would like the total  
19 budget for NRR.

20 MR. TRINER: For NRR it is \$64 million from the  
21 blue book, and then we were reduced. That was the blue  
22 book, and then of course there was a change.

23 COMMISSIONER GILINSKY: What is the NMSS budget?

24 MR. TRINER: NMSS, the blue book was \$27 million.

25 COMMISSIONER GILINSKY: And I&E?



1 MR. TRINER: I&E was \$64.6.

2 COMMISSIONER GILINSKY: We seem to be capturing a  
3 fairly healthy portion of NRR, but practically nothing in  
4 NMSS. As I remember, one of the budget items was to help  
5 with the materials licenses, and I would assume every bit of  
6 that --

7 COMMISSIONER AHEARNE: I want to get into the NMSS  
8 question. My understanding is that you have not done much  
9 with NMSS.

10 COMMISSIONER GILINSKY: And finally, I&E.

11 MR. DIRCKS: The NMSS budget, you must remember, a  
12 good deal of that is in waste management.

13 COMMISSIONER GILINSKY: I understand that. It may  
14 be you would end up with a smaller fraction of it, but I am  
15 just surprised that it is \$1 million. I think I&E would  
16 have, if anything, a larger fraction than NRR because I&E is  
17 not working on generic requirements; they are just  
18 inspecting individual facilities.

19 CHAIRMAN PALLADINO: Kevin?

20 MR. CORNELL: This may be a partial answer to the  
21 point you are raising. In '77 when the schedule was based  
22 there were certain activities that were not covered. I've  
23 got dollar figures associated with those in '77. If you  
24 prorate those up to our budget which has doubled since then,  
25 that will give you a feeling of why some costs are not --

1 why the amount we are recovering is considerably a small  
2 percentage.

3           Virtually all of Research is excluded. Generic  
4 licensing in '77 was \$30 million. That is licensing work  
5 related to numerous licensees, not identified for one. If  
6 you double that, that is another \$60 million.

7           Standards and code development, \$16 million.  
8 Safeguards -- non-casework safeguard work was \$7 million;  
9 contested hearings was \$5 million; then you've got about  
10 another \$10- to \$15 million, maybe \$20 million connected  
11 with --

12           COMMISSIONER GILINSKY: Are we not charging for  
13 our participation in hearings?

14           MR. CORNELL: In contested hearings.

15           COMMISSIONER GILINSKY: Why not? I mean, what we  
16 are doing is helping the utility get its license, as far as  
17 I can see.

18           COMMISSIONER AHEARNE: That is another --

19           MR. MILLER: We have been advised both by the  
20 Commission and the legal staff that we could not recover  
21 those costs.

22           COMMISSIONER AHEARNE: Let's see, now. When you  
23 say the Commission advised you you could not cover them, you  
24 mean the previous Commission?

25           MR. MILLER: Past policy.

1 MR. DONOGHUE: Past policy, yes.

2 MR. FONNER: The legal constraint was, as I  
3 recall, one which was suggested by OGC that there was no  
4 control by the licensee or the staff over the duration and  
5 content of a contested hearing; that it would appear  
6 inappropriate, if not illegal, to pass that cost on to the  
7 applicant, the contested hearings resulting primarily from  
8 intervention by third parties.

9 COMMISSIONER AHEARNE: Is it obvious that it has  
10 to be passed on to the applicant?

11 MR. FONNER: We have to pass it on to an  
12 applicant. We cannot pass it on to a member of the general  
13 public.

14 COMMISSIONER AHEARNE: Why?

15 MR. FONNER: Because they have no application.  
16 They are not requesting a service from us. They are  
17 contesting the provision of the service.

18 COMMISSIONER AHEARNE: They are requesting a  
19 provision of the service, aren't they, in some cases?

20 MR. FONNER: You have raised a question which I  
21 think I would like to sleep on for about three or four  
22 weeks.

23 (Laughter.)

24 COMMISSIONER GILINSKY: You are talking about  
25 charging other parties?

1 MR. FONNER: Charging intervenors for  
2 intervening.

3 COMMISSIONER AHEARNE: Or charging for some of the  
4 services provided by the staff. If the issue is the NRC  
5 Staff providing time, it just seemed to me your answer  
6 seemed to be that obviously there would be a charge against  
7 the applicant, and I was just raising the question of why  
8 that is obvious.

9 MR. FONNER: I think we are precluded now, the  
10 Staff is, by the Commission from charging a fee from the  
11 intervenors. They pay their own way.

12 COMMISSIONER AHEARNE: But this is staff time that  
13 is spent. I was just reading the statute that I think  
14 underlies this. It was not clear to me that it specifically  
15 identified an applicant for license.

16 COMMISSIONER GILINSKY: When you objected earlier  
17 about the role of the staff in the hearing, let me just  
18 expand on that. Typically the staff does not go to hearing  
19 unless it has come to some agreement after the negotiating  
20 process with the licensee. Thereafter -- that is not true  
21 100 percent of the time, but it is largely true --  
22 thereafter, the staff and the licensee are by and large in  
23 agreement. In many cases it seems to me the staff does not  
24 have to participate in the hearing. The licensee would  
25 carry the load. Our participation is in many ways -- the

1 participation of the staff as a party is in the form of  
2 assistance in proving the case for the licensee, or helping  
3 the licensee's case.

4 COMMISSIONER AHEARNE: Oftentimes, though, it is  
5 responding to a number of contentions, and in some cases  
6 doing analyses on those contentions.

7 COMMISSIONER GILINSKY: Oh, yes. It does not  
8 cover the whole gamut, but I think a rough generalization is  
9 reasonably accurate.

10 CHAIRMAN PALLADINO: I think this is a rather  
11 tricky area in which to draw any conclusions.

12 COMMISSIONER AHEARNE: Underlying it all, though,  
13 I think Vic has got a very good point. It just seems odd  
14 the small percentage that is covered. My comment is: I&E  
15 may have a magnificent manpower tracking system. I don't  
16 know where all their money is going.

17 COMMISSIONER GILINSKY: I think it is going to  
18 inspect facilities. I did not mean to suggest that they are  
19 not doing their job.

20 COMMISSIONER AHEARNE: But it does not show up  
21 here.

22 COMMISSIONER GILINSKY: My feeling is that a lot  
23 more of it ought to show up here.

24 CHAIRMAN PALLADINO: Let me ask a different  
25 question, if we can leave this one for the moment. Why do

1 some of the lower limits go down on this chart? Maybe there  
2 is an obvious answer?

3 MR. MILLER: Well, as you can appreciate, if you  
4 look under your "current range," those were average costs  
5 that were provided to us back when we developed the schedule  
6 in 1977. If you look at your right-hand side, those are  
7 actual costs.

8 Now the only thing that I can conclude in talking  
9 with the people is that there has been a refocus of effort,  
10 emphasis, in some instances caused by Three Mile Island, and  
11 one thing or another, but it is just a refocusing of  
12 effort. Because on the left, you had an average cost.

13 CHAIRMAN PALLADINO: For example, "routine  
14 safeguards inspections per year," you started at \$9500. Now  
15 we are talking about \$1900.

16 MR. MILLER: Right.

17 CHAIRMAN PALLADINO: I was just wondering why that  
18 limit went down, for example.

19 MR. MILLER: Mr. Chairman, the only thing I can  
20 say is that in discussing it with the Staff, there has been  
21 a change in emphasis. Those were average-cost figures back  
22 in 1977 when the safeguards program was a relatively new  
23 program.

24 CHAIRMAN PALLADINO: Well, if you look at routine  
25 safety inspections, the lower range went from \$60.4 to \$36.9

1 thousand. Is that right?

2 MR. MILLER: Yes. You see, again if you look at  
3 the \$60,000, that was a fixed average fee for a second unit  
4 at a site. Now some second units would cost more, even at  
5 that time, and some would cost less because it was an  
6 average fee.

7 What you see on the right-hand column is the  
8 starting point in actual costs. Am I making myself clear?

9 CHAIRMAN PALLADINO: Not quite.

10 MR. MILLER: The sixty --

11 CHAIRMAN PALLADINO: Sixty was not the lower  
12 limit?

13 MR. MILLER: Sixty was the average fee where there  
14 were multiple plants at a site. It was an average cost.

15 COMMISSIONER ROBERTS: "Fee" or "cost"?

16 MR. MILLER: Fee. An average fee.

17 COMMISSIONER ROBERTS: An average fee?

18 MR. MILLER: That is correct. And in one  
19 instance, it may be considerably less, down to \$16,000, and  
20 another might have been up to \$75,000.

21 CHAIRMAN PALLADINO: Are you saying you changed  
22 the way you computed these ranges?

23 MR. MILLER: Yes. As a matter of fact, what you  
24 had there was average cost -- fees based on an average  
25 cost. We might have developed that \$60,000 by taking five

1 concurrent plants and averaging the cost. That was the  
2 fee. That was the system at that time.

3 Now we are changing our method of charging, and we  
4 go to actual costs.

5 COMMISSIONER AHEARNE: Actual "average" cost.

6 CHAIRMAN PALLADINO: Would this range -- the lower  
7 end went down on one, two, three, four, five of these, and  
8 that seems strange.

9 COMMISSIONER AHEARNE: No. You would expect that  
10 because if the previous was always an average, you would  
11 have expected that there would be some below that average.  
12 So you would expect, if you now have a range that includes  
13 not an average but an actual range, it is not now picking up  
14 all those costs.

15 CHAIRMAN PALLADINO: But I would expect the costs  
16 would have gone up somewhat and not have the significant  
17 differences as one of these would imply.

18 MR. MILLER: You see, Mr. Chairman, the average  
19 costs for a nuclear power plant at a site where there was  
20 one plant was \$75,700. But in actuality, if you looked at  
21 that, it would take say 20 plants. One may cost you \$35,000  
22 to inspect for the year, where another one in some instances  
23 was up at roughly \$140,000. So those 20 plants would fall  
24 in between with the \$75,000 being your average cost. That  
25 is the way we assessed fees before.



1 CHAIRMAN PALLADINO: When you came up to the OL  
2 review, was that average, again?

3 MR. MILLER: OL was based on an actual cost, but  
4 there was a ceiling.

5 COMMISSIONER ROBERTS: That is my question. Under  
6 present Commission rules and practice, is this right-hand  
7 column of the current range the maximum that any licensee  
8 would pay for any one of these activities?

9 MR. MILLER: That is correct. That is the cap per  
10 max. That is right. In other words, for a year's time for  
11 routine safety they would pay no more than \$75,700. For  
12 inspection, if it cost \$300,000, they would still pay that  
13 because that is the cap.

14 COMMISSIONER GILINSKY: Why is that the cap?

15 MR. MILLER: The regulations provided that. The  
16 Commission decided that in '77 when this schedule was  
17 developed that they would put on the ceiling.

18 CHAIRMAN PALLADINO: But there is no cap over on  
19 the right-hand column.

20 MR. MILLER: That is correct. We are proposing  
21 now that the cap be removed.

22 COMMISSIONER ROBERTS: I have a lot of difficulty  
23 with that. I certainly agreed with your opening statements  
24 about wanting to simplify and update obviously figures that  
25 were used in '77 that bear no relation to reality today.

1 But just as a management practice, I question -- I am sure  
2 it is difficult to determine an appropriate maximum figure  
3 for all of these endeavors. I do not deny the difficulty in  
4 doing that. But I just do not believe -- We cannot send  
5 people a charge for our services without any element of  
6 predictability.

7           What sort of incentive is there for us to carry  
8 out our operations efficiently if we are just going to send  
9 the utility a bill for services rendered? I think it is  
10 dreadful on the surface. I am willing to be persuaded, but  
11 I really, just on the first blush, cannot conceive of our  
12 not having some maximum figure.

13           Certainly there are going to be some plants that  
14 require much less time for CP review or whatever, but I have  
15 a lot of difficulty in this open-ended concept.

16           COMMISSIONER GILINSKY: Well, there is some check  
17 in the fact that you are accountable for all of these, and  
18 if someone screams --

19           COMMISSIONER ROBERTS: I am sure there will be a  
20 lot of screaming. But you know, Victor, you can get into  
21 all sorts of arcane arguments about what are costs.

22           COMMISSIONER GILINSKY: I understand what you are  
23 saying. I do not necessarily disagree with what you are  
24 saying, but we do have to account for these.

25           COMMISSIONER ROBERTS: I understand that.

1 COMMISSIONER GILINSKY: I wonder whether a cap  
2 would change the total revenue figures very much? In other  
3 words, it depends on how you set it --

4 (Laughter.)

5 COMMISSIONER GILINSKY: -- but it may be that  
6 there are only one or two spikes above it.

7 COMMISSIONER AHEARNE: Since a very large  
8 proportion of the money comes in from NRR, depending on  
9 where you are --

10 COMMISSIONER GILINSKY: Yes.

11 CHAIRMAN PALLADINO: I have several other  
12 questions related to that.

13 It seems that we are now including some things  
14 that really the applicant has no control over. For example,  
15 PAT and SALP are things that we generate. What is the  
16 rationale for including those kinds of things?

17 MR. MILLER: Well, the Commission guidelines  
18 require that any service this agency performs for an  
19 applicant or a licensee, that we recover the costs. So  
20 these are the services which presumably --

21 CHAIRMAN PALLADINO: Any service we invent that we  
22 decide ought to be imposed on the licensee should be paid  
23 for by him? Is that the philosophy?

24 MR. MILLER: Well, on our side of the fence -- and  
25 this is the license fee side -- our feeling is that if it is

1 a service that is provided, it obviously must be a necessary  
2 service and we move along to recover those costs.

3 CHAIRMAN PALLADINO: For example, when it came to  
4 PAT, I am really not convinced that PAT is a service that is  
5 as valuable as it is projected to be. Now I am sitting on  
6 our comment side of the table. I may not have shared views  
7 on that yet, but it seems strange to say: Well, it is so  
8 good that we ought to impose that as a fee.

9 MR. DIRCKS: I think as long as it is a service,  
10 let's say it is an activity performed by the agency that is  
11 directly chargeable or attributable to the licensee, I think  
12 we charge for it.

13 MR. MILLER: Yes.

14 CHAIRMAN PALLADINO: So you are saying the  
15 licensee is subject to any activity of this type that we  
16 choose to do?

17 COMMISSIONER AHEARNE: I think that is the way the  
18 law that underlies this reads.

19 MR. MILLER: In essence, the court has said that  
20 the Commission could recover full costs of services provided  
21 to identifiable beneficiaries. And any service basically  
22 performed in inspection, licensing, approval, whatever that  
23 service might be, provided this agency has made a decision  
24 that it is necessary, then we can recover those costs. And  
25 quite honestly, I do not attempt to make any judgment of

1 other people's services.

2 CHAIRMAN PALLADINO: This is a point I am raising  
3 more for our own consultation here.

4 COMMISSIONER BRADFORD: Is it clear that the court  
5 decision says that you cannot recover costs that do not go  
6 to a particular licensee but nonetheless go clearly to a  
7 group of licensees? Take for example LOFT. Supposing we  
8 were to say that LOFT was equally applicable to all PWRs and  
9 billed it accordingly? Is that clearly contravened by  
10 anything in the decision?

11 MR. MILLER: Bob might be able to speak to this  
12 better, being an attorney, but I would think that if you can  
13 in fact take a chunk of dollars, for want of a better way of  
14 saying this, and be able to identify licensees that received  
15 that service, if you could come up with a reasonable method  
16 of apportioning it, you could recover the costs.

17 Do you agree with that, Bob?

18 MR. FONNER: Yes, I agree with that. I don't know  
19 how OGC comes out on this one. I agree with that, but I  
20 have always felt that we are pushing the independent offices  
21 appropriations to their utmost extreme and I think creating  
22 vulnerabilities where we do not want them.

23 CHAIRMAN PALLADINO: It is what?

24 MR. FONNER: If we start to take costs like LOFT  
25 and then try to attribute them to individual licensees, I

1 feel uncomfortable with the risks that we might be taking in  
2 jeopardizing our whole fee schedule to go that route.

3 COMMISSIONER BRADFORD: Why would it jeopardize  
4 the whole fee schedule?

5 MR. FONNER: Not the whole fee schedule; I'm  
6 sorry.

7 MR. BICKWIT: I regard it as incurring risks, and  
8 I regard it as on balance legal.

9 CHAIRMAN PALLADINO: On balance what?

10 MR. BICKWIT: Legal.

11 CHAIRMAN PALLADINO: I have a series of  
12 questions. Why can't we consider research that benefits  
13 licensees as part of the fees. You are saying that we can  
14 if we can identify it to a particular class of reactors, and  
15 identify the individuals in that class of reactors?

16 MR. MILLER: Basically what I think you would have  
17 to do in these cases would be to set up a different type of  
18 accounting system in this agency to tie your dollars more  
19 directly to casework. It would be very difficult to try to  
20 do, I think.

21 COMMISSIONER GILINSKY: We charged for Indian  
22 Point, Limerick, and Zion, for which I guess special  
23 analyses are being conducted, risk analyses. Would that  
24 fall into the --

25 MR. MILLER: I am not that familiar with those

1 programs.

2 MR. DIRCKS: We have.

3 MR. MILLER: We charge fees for programs generated  
4 doing risk analyses.

5 COMMISSIONER AHEARNE: I think the question was,  
6 these are programs done by a branch in the Research division  
7 in support of a review conducted by NRR.

8 COMMISSIONER GILINSKY: For specific reactors.

9 COMMISSIONER AHEARNE: Very specifically oriented  
10 to a set of reactors by name.

11 MR. MILLER: I would assume not. Normally we have  
12 not recovered costs for programs where we, the Commission,  
13 generate a program to gather information for itself. We  
14 have not -- I am not that familiar with the program.

15 MR. DONOGHUE: Was it to make a licensing  
16 decision?

17 COMMISSIONER GILINSKY: Rather than pursuing that,  
18 let me go back to I&E. We are in a way capturing a large  
19 portion of NRR's budget.

20 COMMISSIONER AHEARNE: For the Reg Guides, you  
21 compared it to their current budget. Probably the \$28  
22 million is a better comparison than the \$40. It is still a  
23 large portion.

24 COMMISSIONER GILINSKY: In any case, a larger  
25 fraction than in the other offices. They do have a certain

1 amount of generic work. You could argue about where you  
2 draw the line.

3 MR. DIRCKS: I don't know. I just had a feeling  
4 that we had picked up on their cost data. We picked up  
5 their work. If there is a gap --

6 COMMISSIONER AHEARNE: I think NRR, at least  
7 looking at this, is probably doing pretty good.

8 COMMISSIONER GILINSKY: The categories you are  
9 excluding from I&E are generic activities, standards, export  
10 safeguards, Agreement States. They do not seem to me like a  
11 very large fraction of I&E's effort. There is a lot of  
12 generic work at NRR.

13 COMMISSIONER AHEARNE: You'd better take back that  
14 statement about --

15 (Laughter.)

16 COMMISSIONER GILINSKY: I find it puzzling that  
17 you are only capturing, I don't know, what, 25 percent, or  
18 20 percent of the total, and a much smaller portion than you  
19 are capturing in NRR. Don't you find that surprising?

20 MR. DONOGHUE: Almost all their work is related to  
21 some specific licensee.

22 CHAIRMAN PALLADINO: Do you think your numbers are  
23 right on I&E? They just seem low. I expect that if you  
24 got the right rate, and if you got the right hours, you  
25 ought to come out higher because, as you say, most of their



1 work is connected with a particular licensee.

2 MR. MILLER: Well, the numbers that you see there  
3 projected revenue is based -- you know, it is based on  
4 estimates and past efforts. So we try to project in the  
5 future as to what might happen. But these are projections  
6 and estimates.

7 COMMISSIONER AHEARNE: Do you have a column for  
8 some previous year, whether it is FY '81 or FY' 80?

9 MR. MILLER: Do you have it, Jim?

10 MR. HOLLOWAY: Which one?

11 MR. MILLER: '79-'80. Do you have any previous  
12 year?

13 MR. HOLLOWAY: Currently it is \$7 million on  
14 routine inspections that were recovered from I&E.

15 COMMISSIONER AHEARNE: How about NRR?

16 MR. HOLLOWAY: It depends on how many OLs and CPs  
17 they issued.

18 MR. DONOGHUE: A total of \$14 million last year.

19 MR. MILLER: A total of \$6 million?

20 MR. HOLLOWAY: Slide three has the collection  
21 figures.

22 COMMISSIONER AHEARNE: Slide three has the  
23 estimated collection. I was trying to compare it to the  
24 real collections.

25 MR. MILLER: He wanted earlier years.

1 MR. HOLLOWAY: In fiscal '81 our collections were  
2 about \$12.5 to \$13 million, of which \$7 million comes from  
3 I&E, \$1 million from NMSS materials, and the remainder would  
4 be, what, \$4 million, something like that?

5 COMMISSIONER AHEARNE: \$4.5 million.

6 MR. HOLLOWAY: That would be from NRR.

7 CHAIRMAN PALLADINO: Now for '82?

8 MR. MILLER: '82 is the numbers we have here: \$9  
9 million under the current schedule for NRR, and \$1 million  
10 for NMSS, and \$7 million for I&E.

11 CHAIRMAN PALLADINO: I&E only went from \$7 to \$9  
12 '81 to '82 projected. The NRR went from \$4.5 to \$40.

13 MR. HOLLOWAY: It is the billing.

14 MR. DONOGHUE: We are going back and picking up  
15 the work that has been performed in prior years and billing  
16 for it as soon as this schedule is approved. So it shows a  
17 big spike in '82 for that reason.

18 CHAIRMAN PALLADINO: Are you going to do that for  
19 the others?

20 MR. DONOGHUE: For NMSS we would.

21 CHAIRMAN PALLADINO: How about I&E?

22 COMMISSIONER AHEARNE: I&E is billed on  
23 inspections.

24 MR. DONOGHUE: They are billed on an inspection  
25 basis.

1           CHAIRMAN PALLADINO: You are saying we should look  
2 at the twenty-eight as more reasonable?

3           COMMISSIONER AHEARNE: Right.

4           CHAIRMAN PALLADINO: That is still quite a chunk  
5 compared to the seven to eleven; more like five, whereas the  
6 other one is not even two.

7           (Slide.)

8           CHAIRMAN PALLADINO: Why are we not changing fees  
9 for radioisotope licenses, not even by an amount for the  
10 inflation factor?

11          MR. MILLER: We have not proposed to change them  
12 at this time at this juncture for a couple of reasons. One  
13 is that eventually we would like to get them on an  
14 actual-cost basis, but we have to sit down and work with the  
15 people in NMSS to see if we can go that route. Currently  
16 they do not charge time to a docket basis as do the other  
17 offices. I&E and NRR charge to a broad category.

18          For example, in Vandy Miller's shop they would  
19 charge all radiography work. There are about one-hundred  
20 and some odd radiography licenses they work on. They would  
21 charge all their time to one program code.

22          Another example would be to code for hospitals.  
23 We have about 1400 hospitals. So they do not charge to a  
24 particular docket. So that we could obviously --

25          CHAIRMAN PALLADINO: I was thinking that you could

1 have at least gone up by an inflation factor.

2 MR. MILLER: Yes, we could; but we felt it would  
3 be better to go back and relook at all these 8000 small  
4 licensees.

5 CHAIRMAN PALLADINO: You do them by categories. I  
6 don't want to be critical of the system. That might be a  
7 good system, but if inflation has carried the costs higher,  
8 why shouldn't they go up by at least that inflation factor?

9 COMMISSIONER AHEARNE: Would that bring you into  
10 the Regulatory Flexibility Act?

11 MR. MILLER: Small business, yes.

12 COMMISSIONER AHEARNE: They have said there is no  
13 impact on the Regulatory Flexibility Act. It is not going  
14 to come into play because there is no impact on these small  
15 business individuals. If you do the radioisotope thing with  
16 the percentage increase thing, they can no longer say that.

17 CHAIRMAN PALLADINO: But then what would happen if  
18 you could no longer say that? If we went up and it affected  
19 small business, what would we have to do?

20 MR. MILLER: We would have to go back and see what  
21 the impact on small business was and, frankly, get a lot of  
22 hell raised.

23 (Laughter.)

24 COMMISSIONER AHEARNE: I think you are thinking  
25 back to '77.

1 MR. MILLER: About 10 years of it.

2 COMMISSIONER GILINSKY: Let me ask you what  
3 fraction of those costs are being recovered, roughly?

4 MR. MILLER: Roughly 3 percent. That is off the  
5 top of my head.

6 COMMISSIONER GILINSKY: Less than 10?

7 MR. MILLER: Yes.

8 COMMISSIONER GILINSKY: For the small licensees?

9 MR. MILLER: It is in there somewhere.

10 MR. DONOGHUE: But the Commission has always kept  
11 the fee below the figure of the actual cost.

12 COMMISSIONER AHEARNE: A factor of 10, 20?

13 MR. DONOGHUE: Pretty close. This is a policy  
14 decision.

15 CHAIRMAN PALLADINO: Even though you say it  
16 affects small business, somewhere along the line you have  
17 got to affect small business.

18 COMMISSIONER GILINSKY: I say we do a study.

19 COMMISSIONER AHEARNE: Yes. I don't like the idea  
20 of automatically putting that tremendous discount factor on,  
21 particularly when you tell us it is Commission policy,  
22 because I would rather not have that be the defense unless  
23 we had participated and agreed.

24 MR. DIRCKS: I think it is a continuation of what  
25 we said earlier. This is no change.

1 COMMISSIONER AHEARNE: I understand. I am not  
2 criticizing.

3 COMMISSIONER GILINSKY: Two phases.

4 MR. DONOGHUE: We would look at this as the second  
5 phase. The increased revenues are more likely to occur in  
6 the major licensing effort. Then we can look at the  
7 materials licensees on a longer term basis. Loss in revenue  
8 would not be significant.

9 MR. DIRCKS: You've got some really significant  
10 tricky analysis on this radioisotope licensing. You've got  
11 to look at hospitals, and the cost/benefit of patient care,  
12 what it means to medical care, and so on.

13 COMMISSIONER AHEARNE: Except that we are charging  
14 this cost, and I don't understand why we don't just make it  
15 an initial proposal to try to recover that.

16 MR. MILLER: Well, it was our intent to try to get  
17 this paper through where these are your big dollars, big  
18 money. There are more licenses. On the other side, there  
19 are over 8000 in Vandy Miller's shop. But on the other  
20 hand, budget-wide, dollar-wise, not that much money.

21 But it is our intent to go back and to examine  
22 each of the categories and see if we cannot simplify that.  
23 I don't know whether we will be going to actual cost or  
24 what, but to come back to the Commission with a separate  
25 paper on that.

1           CHAIRMAN PALLADINO: Suppose we did just want to  
2 go up by some reasonable inflation factor? What would we  
3 have to do to get by the flexibility Act, or this small  
4 business Act? You say we would have to prepare an impact  
5 statement on what impact it is going to have? What the  
6 impact is, their prices are going to go up, and are going up  
7 perhaps less than their other inflation costs?

8           MR. MILLER: I suppose if you just added a small  
9 roughly 20 percent for recovering these years similar to  
10 what you had here, the impact probably would not be too  
11 great. But again, I must say, not being an attorney, Bob  
12 would know more about what we could do or --

13          MR. FONNER: I don't think the question is  
14 answerable unless you do at least some preliminary work to  
15 find out what the dollar impact of that rise would be.

16          CHAIRMAN PALLADINO: Do I understand correctly  
17 that you are proposing that we not make any change on the  
18 radioisotope licenses?

19          MR. MILLER: At this time.

20          CHAIRMAN PALLADINO: At this time. You are going  
21 to study it and perhaps come back with a separate proposal?

22          MR. DONOGHUE: Yes.

23          COMMISSIONER AHEARNE: You wouldn't care to make  
24 an estimated date when you are going to come back with this  
25 other proposal, would you?

1 (Laughter.)

2 COMMISSIONER BRADFORD: Guidance might be  
3 helpful.

4 COMMISSIONER GILINSKY: Why is that such a big  
5 deal to do a study? You don't have to look at every  
6 licensee.

7 MR. DONOGHUE: We can look at the categories.

8 COMMISSIONER GILINSKY: Just get a sense of what  
9 the impact might be.

10 MR. MILLER: We could. Let's see, if we don't  
11 intend to go back and reestablish all the categories and  
12 that kind of detail, if you are just talking about looking  
13 simply at the impact, a couple of months.

14 COMMISSIONER GILINSKY: Let's do it.

15 CHAIRMAN PALLADINO: I just wrote down, "will  
16 study."

17 COMMISSIONER AHEARNE: A couple of months runs out  
18 when?

19 MR. DONOGHUE: At the end of the year.

20 COMMISSIONER AHEARNE: That's calendar year?

21 CHAIRMAN PALLADINO: I was willing to write "will  
22 study and report in February."

23 MR. MILLER: That sounds even better.

24 (Laughter.)

25 CHAIRMAN PALLADINO: Well, I am going to write



1 "February," but if you beat it that would be fine. Is that  
2 reasonable? I don't want to put an impossible task on you.

3 MR. DIRCKS: I think you will have a lot of help  
4 from the American Medical Association, and the American  
5 Hospital Association. They will be happy to provide us the  
6 impact.

7 COMMISSIONER GILINSKY: Other philanthropic  
8 organizations.

9 (Laughter.)

10 CHAIRMAN PALLADINO: You have given no rationale  
11 for the change of policy to charge for applications or  
12 requests stemming from Commission orders. What rationale  
13 would you give, if you were asked to give one?

14 MR. MILLER: Well, we did in the paper.

15 CHAIRMAN PALLADINO: I don't recall.

16 MR. MILLER: Back when we developed this rule in  
17 '76, '77, in working with NRR, which encompasses work with  
18 all these offices, there were very few instances where Part  
19 II orders were issued. And as a result of Three Mile Island  
20 and other things, now there is a tremendous number of orders  
21 issued, and a lot of amendments and so forth generated  
22 because of that.

23 We feel that there is a lot of amendments, and a  
24 lot of approvals, and so forth, which relate to safety which  
25 presently under the present rule are being exempted. We

1 just simply feel that they are really no different than  
2 rule-of-the-mill types of amendments, and so forth, and they  
3 should pay.

4           CHAIRMAN PALLADINO: Maybe the rationale is  
5 there. It did not seem to me to be as clear as it might be.

6           Incidentally, if we ask for a study and the study  
7 comes in, do we charge them for reviewing the study? Is  
8 that a service?

9           MR. MILLER: No.

10          COMMISSIONER AHEARNE: Wouldn't that depend?

11          MR. MILLER: I guess it would depend. If you were  
12 talking about a topica report, we would.

13          CHAIRMAN PALLADINO: As part of the TMI Action  
14 Plan, for example?

15          COMMISSIONER AHEARNE: Let us say that the issue  
16 was that the licensee ought to put in a filtered vented  
17 containment, and that was the challenge, and it was clear  
18 that the Commission was about to do that. And instead, the  
19 licensee and the staff got together and said: Instead of  
20 the licensee being ordered to do that, we have worked out a  
21 compromise. The licensee will do a study of the advantages  
22 of doing that. We are going to submit it to NRR, and NRR is  
23 going to review it.

24          I would think that in that case that ought to be a  
25 charge.

1           CHAIRMAN PALLADINO: Well, I was thinking of we  
2 request some study on a particular reactor with regard to  
3 pressurized thermal shock. We get the report back and we  
4 study it. Would that be a charge we would make? I am just  
5 trying to get a feel for the scope of these things.

6           COMMISSIONER AHEARNE: I don't know.

7           MR. MILLER: If the Commission sees a problem and  
8 goes out on something dealing with safety, yes. On the  
9 other hand, we have had a number of instances where they go  
10 out to gather licensing data, procedural type information,  
11 improvement of licensing, things of that nature, no. But if  
12 there is a safety problem, if we go out to a specific  
13 licensee and tell them to do something and submit it, under  
14 those circumstances normally there would be a charge, yes.  
15 There always has been.

16          COMMISSIONER AHEARNE: Can you differentiate that,  
17 then? In tracking under NRR, there is an area of Commission  
18 orders, new applications for license, and that is going to  
19 be excluded? That is not going to be included in the  
20 schedule?

21          MR. MILLER: What we are currently doing under the  
22 current schedule, if the Commission issues an order -- this  
23 is what I was talking about earlier -- a Part II Order and  
24 requires the applicant to come back, the licensee to come  
25 back with a request for an amendment to change something,

1 under the current regulations we do not charge for that  
2 amendment.

3           What we are proposing here is that in the future  
4 we will charge for it.

5           COMMISSIONER AHEARNE: I wasn't talking about  
6 that.

7           MR. MILLER: In the second instance, I think the  
8 one you are getting to, what you get into --

9           COMMISSIONER AHEARNE: What I am asking about is  
10 the part where it says, "The Commission orders no  
11 application from the licensee," and that will be excluded.

12           MR. MILLER: That's right.

13           COMMISSIONER AHEARNE: And I was wondering why you  
14 would exclude it. The case I was thinking of, we issue many  
15 orders which are confirmatory orders, in which case there is  
16 no application after it. After negotiation, which in many  
17 cases has taken some length of time between the staff and  
18 the licensee, the staff has reviewed a number of proposals  
19 the licensee has made, and they have done a lot of  
20 examination of the issue, and the way that that agreement is  
21 finally put in place is a confirmatory order. There is no  
22 further application from the licensee.

23           Now I would read this as saying that all that  
24 negotiation work done by NRR is excluded.

25           MR. MILLER: Yes. I guess the reason we did

1 that-- the reason I proposed it, here again I would yield to  
2 the lawyers, but as I understand the court's position, if an  
3 applicant does not request the Commission to do something,  
4 or file an application, if we do not have something on file  
5 from an applicant, then we can't -- is my logic flawed  
6 there, Bob, or is it right?

7 MR. FONNER: Well, as I recall, historically one  
8 of the reasons for not including in the fee schedule  
9 licensee responses to orders under Part 2, 2.204 orders,  
10 this was at the request of NRR. I am not certain today what  
11 their logic was.

12 (Laughter.)

13 MR. FONNER: The Commission guidelines which were  
14 involved in the Mississippi Power & Light case, I would  
15 suggest, would include the opportunity to bill for such  
16 orders.

17 In administration of the fee schedule in its  
18 earlier years, we had a number of difficult decisions to  
19 make because NRR did not write orders in a consistent  
20 manner. Some orders said to the licensee, "do A, B, C."  
21 Others said, "give us a report on how you are going to do A,  
22 B, C." Then there would be a subsequent amendment.

23 Sometimes we had a hard time deciding how we were  
24 going to administer the current rule which says: If you  
25 have an action resulting from a Commission order, you do not

1 charge for it.

2 Now I think what is being proposed is just to  
3 eliminate the whole area of difficulty.

4 MR. MILLER: Right.

5 COMMISSIONER AHEARNE: But I gather from your  
6 answer you do not automatically say that the courts ruling  
7 would not allow us to charge for the work NRR does  
8 preparatory to that confirmatory order?

9 MR. FONNER: I would like to not have to answer  
10 that.

11 (Laughter.)

12 MR. FONNER: Are you talking about work that the  
13 staff does before issuing the order?

14 COMMISSIONER AHEARNE: I am talking about, at  
15 least in the last two years, I have seen a great many  
16 circumstances where what has happened is the NRR has worked  
17 extensively with a licensee to negotiate out a settlement--

18 MR. FONNER: Yes.

19 COMMISSIONER AHEARNE: -- which in some cases has  
20 required a lot of work on the part of NRR to review  
21 proposals, evaluate them, criticize, comment, modify. The  
22 final action, the only formal agency action, is a formal  
23 order and there is no response required from the licensee.

24 I would read this to say that therefore all that  
25 preparatory work is nonchargeable.

1 MR. FONNER: I think it could be charged.  
2 Personally, I think the situation is very analogous to if,  
3 instead of the negotiation, you requested the licensee in  
4 the first instance to submit an amendment application  
5 requesting the way they would like to see the issue  
6 resolved, and then we could clearly be able to charge.

7 COMMISSIONER AHEARNE: That's what I thought.

8 MR. BICKWIT: I would say that the Commission has  
9 a lot of flexibility. Whether it is a confirmatory order or  
10 a regulatory order, it is analogous in my view to an  
11 inspection. The licensee never asked for the inspection; it  
12 never asks for the order. In either case, I think under the  
13 language of the opinion, even though there is some  
14 incidental public benefit, they say that there is a benefit  
15 to the licensee.

16 COMMISSIONER AHEARNE: Yes.

17 MR. BICKWIT: I also want to say that with respect  
18 to the contested hearings, analysis of OGC, I think the same  
19 logic applies to contested hearings.

20 I think that on that basis under that logic you  
21 could impose a fee on the licensee even for the  
22 participation-- I'll get to your point, Vic -- even for the  
23 participation of intervenors. However, there is some  
24 language in the Fifth Circuit case that suggested the  
25 contrary.

1 As far as your point is concerned, I am kind of  
2 with Bob. That is one that I would want to spend some time  
3 on before approaching it, and I would certainly want to take  
4 a thorough look at the history accompanying the Act.

5 CHAIRMAN PALLADINO: Let me ask a general  
6 question, Bill. I don't know who should answer it, but  
7 recognizing the way we have increased the charges, and we  
8 have expanded it, do you feel it is confident that we will  
9 do as well in the Appeals Court with this fee schedule as we  
10 did in the old one?

11 (Laughter.)

12 MR. MILLER: I think --

13 MR. DIRCKS: I think that is why we proposed it in  
14 this form without major changes from what the Commission  
15 approved and what was tested the last time. How you add to  
16 it or subtract from it I will let the legal staff advise you  
17 on that.

18 CHAIRMAN PALLADINO: Maybe I am asking the legal  
19 staff.

20 MR. FONNER: I would like to defer to OGC. We do  
21 not analyze risks of this major --

22 COMMISSIONER GILINSKY: Of this magnitude?

23 (Laughter.)

24 MR. BICKWIT: We reviewed the schedule and are  
25 comfortable with it. We are not anticipating difficulties



1 in court. We are anticipating litigation, but we anticipate  
2 prevailing.

3 MR. MILLER: One of the things we have tried to do  
4 is to stick within the guidelines in the court decision in  
5 developing this schedule to avoid that difficulty.

6 CHAIRMAN PALLADINO: I was going to propose the  
7 following.

8 COMMISSIONER AHEARNE: I have a question.

9 CHAIRMAN PALLADINO: That we not try to vote now.  
10 I think there needs to be quite a bit of reflection on some  
11 of the answers that we got.

12 What I did want to ascertain is whether or not the  
13 Commission wanted any revision of the approach? For  
14 example, the one that might find some support is to  
15 re-examine the way you arrived at your new items, utilizing  
16 actual costs rather than an increase by inflation.

17 Now is this the sense of the Commission to want to  
18 do that?

19 COMMISSIONER AHEARNE: Yes. I would also really  
20 like to understand how I&E gets charged.

21 CHAIRMAN PALLADINO: Well, okay.

22 COMMISSIONER ROBERTS: Yes.

23 CHAIRMAN PALLADINO: I think we have a feeling  
24 that you probably ought to go back and re-examine the basis  
25 for the fees using the actual average costs of the

1 professional staff.

2 COMMISSIONER GILINSKY: Let's see. Is there any  
3 feeling that the answer is going to come out much  
4 different?

5 CHAIRMAN PALLADINO: I have a feeling it is going  
6 to be a much more defensible position. That is why I asked  
7 my last question. I have a feeling that if we do not use  
8 our actual costs, there will be people who say: Oh, you  
9 have caps on all these raises; you didn't really increase  
10 the amount. And I don't know what else.

11 COMMISSIONER AHEARNE: I think they should, at  
12 least with I&E, it ought to come out different.

13 COMMISSIONER GILINSKY: But I think the question  
14 with I&E is different.

15 CHAIRMAN PALLADINO: I was going to raise that as  
16 the second point.

17 COMMISSIONER GILINSKY: Yes.

18 COMMISSIONER AHEARNE: The other I think ought to  
19 be done just because I think it ends up being more  
20 defensible. I don't think it is going to be much  
21 different.

22 CHAIRMAN PALLADINO: It may even end up with  
23 higher costs.

24 MR. DIRCKS: I think it would.

25 CHAIRMAN PALLADINO: But then at least we would

1 know the basis is very good.

2           And then I do think it would be useful both to  
3 yourselves and to us to get a feel for how many staff hours  
4 we use in inspection applicable to particular licensees, and  
5 express that as a fraction of the total amount of effort in  
6 I&E. Then we can get a better feel for what income we are  
7 getting from that effort.

8           So I would propose that we not vote now; that we  
9 get that information. What sort of time would you need?

10           MR. DIRCKS: We can do that fairly quickly, in a  
11 couple of days.

12           COMMISSIONER AHEARNE: I&E may take longer.

13           MR. DIRCKS: I think we have to find out in very  
14 quick terms what we include in the I&E figure.

15           COMMISSIONER GILINSKY: Yes. It is really just  
16 getting an idea.

17           MR. DIRCKS: It doesn't have to be an exhaustive  
18 analysis.

19           COMMISSIONER GILINSKY: Of the categories.

20           COMMISSIONER AHEARNE: But the question might end  
21 up being, when you probe a little bit, that you end up  
22 finding there is a lot more that ought to be included. And  
23 before taking that big jump, they might want to be a little  
24 more comfortable with where they come from.

25           So let's say, for example, their next cut looks at

1 \$9 million, and it ought to be \$27. Before doing that, I  
2 think they would probably want to step back and look at it a  
3 little more carefully.

4 CHAIRMAN PALLADINO: Did you have another point?

5 COMMISSIONER AHEARNE: I had one other point. I  
6 noticed on page 4 of your paper you said that in the past  
7 the Commission has by rule exempted from fees licenses  
8 issued to federal, state, and local governments and  
9 nonprofit educational institutions.

10 Now I did not see that explicitly addressed in the  
11 proposal. I assume they are still exempted. Is that  
12 correct?

13 MR. MILLER: That is correct. We do not propose  
14 to change them.

15 MR. DONOGHUE: Other than power reactors.

16 COMMISSIONER AHEARNE: I can understand the  
17 federal because, as I understand the statute, that is  
18 excluded. But I don't understand why the rest are  
19 excluded.

20 MR. MILLER: I hate to say this, but it was a  
21 policy decision a number of years ago that the Commission  
22 decided. They were trying to encourage states to pick up  
23 the Agreement States program in cooperation with the state  
24 agencies and the federal agencies, and so forth. And since  
25 a lot of these are state hospitals, state type programs,

1 they just decided that it would be good to exempt all  
2 licenses. Most of them, obviously, are these small  
3 materials' licenses.

4 COMMISSIONER AHEARNE: Do you have any rough  
5 estimate of what the dollars are that are involved in this  
6 exemption?

7 MR. MILLER: I don't recall. Do you, Jim? It's  
8 not a lot. We did go back and look at it at one time. I  
9 can get you that number.

10 COMMISSIONER AHEARNE: Okay. I would be  
11 interested in a rough number.

12 MR. MILLER: It's not a lot of money. I would say  
13 somewhere under \$100,000, but don't hold me to it. It has  
14 been some time since I looked at it. They are all the  
15 little licenses, total. Several hospitals and things like  
16 that. We're talking about \$200 per license.

17 COMMISSIONER AHEARNE: Now you had proposed to do  
18 this re-evaluation of the fee every six months.

19 MR. MILLER: Pardon?

20 COMMISSIONER AHEARNE: For example, the reactor  
21 licenses.

22 MR. MILLER: Billing every six months. That's  
23 correct.

24 COMMISSIONER AHEARNE: And that is because it  
25 will-- for example, why not every year?

1 MR. MILLER: Well, we could have done it every  
2 year. We have picked every six months because it would tie  
3 the effort more closely to the billing process, and it would  
4 help from a budget point of view, and it spreads our work  
5 out.

6 COMMISSIONER AHEARNE: You think our record  
7 keeping is good enough, and our response time is fast  
8 enough? To do something every six months at least seems to  
9 imply that you ought to be able to complete your action in  
10 another three or four months.

11 MR. MILLER: Well, not necessarily it doesn't to  
12 me, like an OL. We know that it takes a long period of  
13 time.

14 CHAIRMAN PALLADINO: When it comes to bills, you  
15 ought to be able to do that every 30 days.

16 MR. MILLER: We felt, for example, with these  
17 major areas of fees for OLs, CPs, you are talking about a  
18 couple of million dollars. You spread it over --

19 COMMISSIONER AHEARNE: You are not saying that we  
20 can complete our action in a couple of months?

21 MR. MILLER: You mean the review process?

22 COMMISSIONER AHEARNE: Yes.

23 MR. MILLER: No, because in many instances it will  
24 take years.

25 CHAIRMAN PALLADINO: I don't follow what you are

1 talking about. What takes years?

2 MR. MILLER: To process an OL.

3 COMMISSIONER AHEARNE: No. I didn't mean that.

4 We are billing every six months, which means that we ought  
5 to be able to complete our collection of all the  
6 information, complete our processing --

7 MR. MILLER: For the billing?

8 COMMISSIONER AHEARNE: Oh, yes.

9 MR. MILLER: We can get that and the manpower data  
10 in less than two weeks from NRR, and so forth; yes. In  
11 fact, for example we now get from I&E copies of all of the  
12 inspection reports routinely, and so forth. We have worked  
13 that out.

14 COMMISSIONER AHEARNE: Yes. That was really my  
15 question.

16 MR. MILLER: I misunderstood you; yes.

17 CHAIRMAN PALLADINO: Okay. Now you are going to  
18 send us a revised paper on which we can then vote? And if  
19 we have to have another meeting, we will have another  
20 meeting.

21 MR. DIRCKS: And then you asked for one other--  
22 the review of the radioisotopes.

23 CHAIRMAN PALLADINO: Yes. I had that, but that is  
24 something -- I think we have a consensus that we could put  
25 that off for now and treat that as a separate item.

1 MR. DIRCKS: Right.

2 COMMISSIONER AHEARNE: Something you mentioned  
3 earlier did trigger a question in my mind. You had  
4 mentioned in answering Commissioner Bradford on the  
5 allocation of costs when you talked about contracts, are we  
6 picking up the -- are you proposing to pick up the actual  
7 contract costs? As you know, particularly in NRR, we are  
8 going to an increasing use of contractor review, which means  
9 that the portions of dollars that are going out by contract  
10 are increasing.

11 Are we going to pick up the actual contract  
12 costs?

13 MR. MILLER: Where those contracts are tied to a  
14 docket number, yes.

15 COMMISSIONER AHEARNE: We will?

16 MR. DONOGHUE: We do.

17 COMMISSIONER AHEARNE: And in your fee schedule,  
18 you are proposing to -- one of the reasons we are here is  
19 because the numbers that were used four years ago have  
20 suffered from inflation. Are we going to make it an  
21 automatic annual update?

22 MR. MILLER: The paper does not speak to that  
23 point, but we will; yes. Dan and I talked about that this  
24 morning. It is a good suggestion. Bob Fonner had suggested  
25 that to me earlier, but there is no reason -- in fact, it is



1 simpler to do that. You simply publish a rate in the  
2 Federal Register, and you don't have to go through this  
3 process.

4 CHAIRMAN PALLADINO: Could I ask one question  
5 related to a point that Commissioner Roberts brought up?  
6 Why did you get rid of the cap, or a cap on each of these  
7 items?

8 MR. MILLER: Why did we remove the cap?

9 CHAIRMAN PALLADINO: Why did we put one on in the  
10 first place, and why did we now remove it? In other words,  
11 what has changed?

12 MR. DONOGHUE: We put it on -- I think the  
13 Commission put it on for the reason Commissioner Roberts  
14 cited, predictability, so that the licensee would know what  
15 their exposure was going to be and could plan a budget  
16 accordingly. That was at least my recollection of the  
17 essential rationale the Commission employed at that time.

18 CHAIRMAN PALLADINO: Has that requirement gone  
19 away?

20 MR. DONOGHUE: No. It hasn't gone away, but given  
21 the fact of the dramatic increase in costs as measured by  
22 the services we provide, that to impose the cap is  
23 artificially limiting what the law requires of us.

24 COMMISSIONER AHEARNE: Is the law permissive, or  
25 directive? In other words, does it permit us to charge? Or

1 does it direct us to charge?

2 MR. DONOGHUE: I think it permits us to charge. I  
3 think it is permissive.

4 MR. MILLER: "Shall be sustaining insofar as  
5 possible," is the language as I recall it.

6 MR. DONOGHUE: And considering public interest,  
7 and other factors.

8 MR. MILLER: We felt that providing a range would  
9 take the place of a cap, not directly but at least it gives  
10 them a ballpark estimate as to where it would end up.

11 MR. DIRCKS: But I guess you could take the high  
12 part of the range and impose it as a cap, and that would  
13 still give you your projections.

14 COMMISSIONER AHEARNE: Is it your view that this  
15 then meets the statement that was part of the '82 submission  
16 on the part of the Administration? The submission to  
17 Congress, as I recall, said "The Commission shall" --

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1 MR. DIRCKS: The projected return of revenues  
2 meets their desires.

3 COMMISSIONER AHEARNE: \$15 million?

4 MR. DIRCKS: Yes.

5 CHAIRMAN PALLADINO: It more than meets it, as I  
6 understand it.

7 Okay? Well, thank you very much. We will stand  
8 adjourned.

9 (Whereupon, at 3:31 p.m., the meeting of the  
10 Commissioners was adjourned.)

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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 - Discussion of Part 170 -- New Fee Schedule

Based on Reexamination of Manpower Estimates

Date of Proceeding: November 2, 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.

Jane W. Beach

Official Reporter (Typed)

Jane W. Beach

Official Reporter (Signature)