

VOLUME 20
NEW JERSEY DEPARTMENT OF ENERGY
BOARD OF PUBLIC UTILITIES

NEWARK, NEW JERSEY

THURSDAY, OCTOBER 30, 1980

In the Matter of the Petition of :
Jersey Central Power and Light : OAL DOCKET NO.
Company for approval of an increase : PUC 3515-80
in rates for electric service and :
for amendment to the Levelized : LPU DOCKET NO.
Energy Adjustment Clause and fac- : 804-285
tor for such service. : 807-488

BEFORE: HON. STEPHEN G. MARSHALL
Administrative Law Judge

A P P E A R A N C E S:

For the Petitioner, Jersey Central
Power and Light Company, appear:

KIRSTEN, FRIEDMAN & CHERIN, ESQS.,
BY: JACK B. KIRSTEN, ESQ., and
DOLORES DELABAR, ESQ.,
17 Academy Street
Newark, New Jersey

and

WILLIAM F. HYLAND, ESQ., Of Counsel
JAMES B. LIBERMAN, ESQ., Of Counsel

J. H. BUEHRER & ASSOCIATES
24 Commerce Street
Newark, New Jersey
(201) 623-1974

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1 A P P E A R A N C E S: (Continued)

2 For Department of Public Advocate,
3 Division of Rate Counsel, appears:

4 ALFRED L. HARDELLI, ESQ.,
Deputy Director
5 RAYMOND MAXUL, ESQ.,
Deputy Public Advocate
6 10 Commerce Court
Newark, New Jersey

7 For the Staff of the Board of Public
8 Utilities, appears:

9 CARLA VIVIAN BELLO, ESQ.,
Deputy Attorney General

10 I. PAUL SLEVIN,
11 Supervising Rate Analyst

12 For the Board of Chosen Freeholders of
Ocean County, appears:

13 BERRY, SUMNERILL, PISCAL, KAGAN &
14 PRIVETERA, ESQS.,
BY: JOHN C. SAMRADNIK, ESQ.,
15 34 Washington Street
Toms River, New Jersey

1 JUDGE MARSHALL: Good afternoon, ladies
2 and gentlemen. This is the continued hearing
3 in the matter of the Petition of Jersey
4 Central Power & Light Company, OAL Docket
5 No. PUC-3518-80, with Stephen Marshall, pre-
6 siding.

7 I believe today is scheduled for the
8 direct testimony and cross-examination of
9 Mr. Arnold, the Petitioner's witness. Are
10 there any other matters the parties wish to
11 bring up before that?

12 MR. KIRSTEN: Just one preliminary
13 matter, your Honor.

14 During the cross-examination of Mr.
15 Newton yesterday, there was a request for the
16 letter which he described as a letter of
17 understanding, with the Ontario Hydro people.
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1 MR. KIRSTEN: (Continuing) We have
2 submitted, in response to that request,
3 actually two letters, one dated October 7,
4 1980 from Ontario Hydro addressed to Mr.
5 Dieckamp and a letter from Mr. Dieckamp to
6 Ontario Hydro dated September 26, 1980.
7 I would suggest they be marked for identi-
8 fication as JC-815.

9 JUDGE MARSHALL: If there is no objec-
10 tion, they will be so marked JC-815.

11 (Letter dated October 7, 1980 from
12 Ontario Hydro to Mr. Herman Dieckamp and
13 letter dated September 26, 1980 from Mr.
14 Herman Dieckamp to Ontario Hydro marked
15 JC-815 for identification.)

16 MR. KIRSTEN: Mr. Wardelli indicated
17 that he had requested about 10 minutes for
18 some other matters. Mr. Arnold is available
19 for hearing this morning. I advised every-
20 one, and I would like to advise you, sir,
21 that Mr. Arnold has a conflict this after-
22 noon on a very important matter which requires
23 him to leave at 3:30, and within those time
24 restraints, I want to put him on the stand
25 and perhaps the Company could start with

1 his examination and if there is a need to
2 interrupt his testimony to take care of Mr.
3 Hardelli's matter, we can do that.

4 MR. HARDELLI: My thought was to have
5 Mr. Arnold go on the stand, give his direct
6 testimony, and then we would present two
7 public witnesses, at which time Mr. Arnold
8 would resume the stand for his cross examina-
9 tion.

10 JUDGE MARSHALL: If there is no objec-
11 tion, that seems quite all right.

12 ROBERT C. ARNOLD, sworn on behalf of Petitioner,
13 testifies as follows:

14 THE STENOGRAPHER: Please state your
15 name for the record.

16 THE WITNESS: My name is Robert C.
17 Arnold.

18 DIRECT EXAMINATION

19 BY MR. KIRSTEN:

20 Q Mr. Arnold, will you please tell us briefly
21 your educational and professional background.

22 A Yes, sir.

23 I am a 1939 graduate of the University
24 of Michigan, School of Engineering. I have a Bachelor of
25 Science degree in science engineering.

1 I went through the University of Michigan
2 on a Naval Reserve Officer Training Corps scholarship program
3 and went on active duty with the United States Navy immediately
4 after graduation.

1 A (Continuing.) I served in the Navy on active
2 duty for ten years. The first four years of which were in
3 various destroyer assignments and training schools related
4 to those assignments. The last six years were in the Navy
5 Nuclear Propulsion Program, as well as the training tour of
6 duties associated with that program.

7 I was on the staff of one of the prototype
8 training centers, both in the capacity of being responsible
9 for a portion of the training program and also in various
10 technical disciplines, including radiological controls and
11 reactor controls.

12 I qualified for the equivalent of what would
13 be in the commercial nuclear power plant as a senior reactor
14 operator. I served on board of the USS Long Beach on a
15 propulsion assignment in which capacity I was responsible
16 for the reactor plant, steam propulsion plant, and the
17 reactor controls, as well as the chemistry and the radio-
18 logical controls program.

19 Upon leaving the Navy, resigning with the
20 rank of Lieutenant Commander, I joined Metropolitan Edison
21 Company as a senior engineer on the staff of the Superin-
22 tendent of Production. That was in September of 1969.

23 I was placed in charge of that department in
24 January of 1972 and progressed through a series of organi-
25 zation developments within the generation area of Met-Ed,

1 during which my scope of management responsibility expanded
2 as we became closer and closer to the commercial operation
3 of TMI Unit No. 2. I was made a vice president of Metropoli-
4 tan Edison Company in December of 1973.

5 TMI Unit No. 1 went into commercial operation
6 in September, 1974, and I was responsible for not only
7 Three Mile Island Unit No. 1's operation, but also for
8 Met-Edison's other generating facilities.
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1 A (Continuing) In June of 1977, I was reassigned
2 to the GPU Service Corporation as Vice President of Generation,
3 at which time I became responsible for design and construction
4 of the GPU system generating facilities. At that time TMI
5 Unit Number 2 was still in the construction phase. We were
6 reactivating the Forked River unit and we were finishing up
7 two major coal projects in central Pennsylvania.

8 At the time of the accident of TMI Unit
9 Number 2, I was in Parsippany on the assignment I described.
10 I went to the Three Mile Island site two days after the
11 accident, and I have been there ever since. And, we have
12 made a series of organizational changes in the interim.

13 I was placed in charge of the TMI Number
14 2 recovery about a week after the accident. Subsequently, I
15 became in charge of all of Three Mile Island in about July
16 of 1974 -- excuse me, July of 1979, in conjunction with an
17 integration of the Met Ed and GPU Service Corporation genera-
18 tion's technical staff supplied to nuclear facilities.

19 This was the first step in the establish-
20 ment of the GPU Nuclear Corporation which we announced in
21 January of 1980 to undertake the direction of all of GPU
22 nuclear facilities.

23 I was designated as the prospective
24 president of the new corporation, and we currently are at
25 the stage where we have established within the GPU system

1 what we call the GPU Nuclear Group.

2 F) any level down it is the equivalent,
3 in organization and structure, to what we will have with the
4 nuclear corporation. But, the plant operations still remain
5 the responsibility of the operating company who holds the
6 license.

7 So in conjunction with that, I have
8 been made a senior vice president of Jersey Central and
9 also a senior vice president of Metropolitan Edison Company
10 and continue to be a vice president of the GPU Nuclear --
11 excuse me, of the GPU Service Corporation. So that I hold
12 executive positions in all three corporations to be able
13 to fulfill my responsibilities for the direction of all of
14 our nuclear activities and resources that are established
15 among those three corporations.

16 Q You are the President designate of the GPU
17 Nuclear Corporation?

18 A Yes. In fact, we have formed on paper that
19 corporation, and I am currently the President of the corpora-
20 tion.

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1 Q And in that organization, in addition to the
2 TMI plants, that also includes Oyster Creek?

3 A Yes, sir, it does. I might say that I think
4 it would be of benefit for those that are here, because of
5 his involvement currently and potential involvement in pro-
6 ceedings in the future before the Board of Public Utilities,
7 to introduce Mr. Phil Clark, who is the Executive Vice
8 President of the GPU Nuclear Corporation and also an officer
9 in all three of the Companies, of which I am an officer.

10 Q He is your second in command?

11 A Yes.

12 Q Mr. Arnold, would you tell us briefly what
13 the status of the TMI-2 recovery operation is?

14 A Yes. Three Mile Island Unit No. 2 is cur-
15 rently in a position where we have effectively decontami-
16 nated the plant other than the reactor building. We have
17 processed the contaminated water that was collected in the
18 auxiliary and fuel handling buildings after the accident
19 to remove the contaminants from that water.

20 We have about 80 percent of the surface de-
21 contamination of those buildings completed.

22 In the containment building, subsequent to the
23 accident, we were faced with a clean-up of contaminants in
24 basically three forms; that is, the contamination in the
25 air within the building, surface contamination within the

1 building, and the contaminated water that was collected
2 in the basement of the building. We have at this point
3 disposed of the contaminated air by venting of the Krypton
4 that was contained within the building and at least in
5 Central Pennsylvania that received a considerable amount
6 of media coverage, and that occurred in the latter part of
7 June and early July.

8 We have made three entries into the building
9 to gather technical information on conditions within the
10 building, but we have not yet started the surface decon-
11 tamination nor have we started processing of the water.
12 We have a system under construction which we term a sub-
13 merged demineralizer system. That system is scheduled to
14 be ready to process water in March of 1981. We do not yet
15 have approval from the Nuclear Regulatory Commission to
16 utilize that system for the processing of water.

17 The water processing and the major portion
18 of the surface decontamination inside the building had to
19 be completed before we can gain access to the reactor
20 vessel head area which must be removed so that we can re-
21 move the fuel.

22 If I could sort of I guess identify the major
23 events in the overall clean-up activity, they are the pro-
24 cessing of the water and the removal of the fuel. They
25 represent the steps necessary to make substantive improvements

1 in the level of risk that exists at the plant to further
2 off-site releases of radioactive material. The status of
3 activity at the plant right now is that it's at a relatively
4 low level.

5 The only major effort directed toward clean-
6 up at this point is the processing or, excuse me, is the
7 completion of the installation and start-up and testing of
8 the submerged demineralizing system. We have reduced the
9 level of effort in engineering, design and construction
10 that are necessary to proceed with clean-up inside the con-
11 tainment building of the surface contamination because of
12 two factors, either one of which could frankly be limiting.
13 One is the limited financial resources available to the
14 Company to utilize for clean-up and the other is a status
15 of regulatory approvals for proceeding with that work.

16 We expect that the regulatory approval situ-
17 ation will improve substantially or at least we hope it
18 will improve substantially with the issuance of the pro-
19 grammatic environmental impact statement. That statement
20 is currently out for review and we do not anticipate that
21 the statement will be issued in final form until about the
22 end of March of 1981, and that frankly is probably somewhat
23 of an optimistic date.
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1 A (Continuing) I think that in terms of the
2 overall effort necessary to complete the cleanup, it will
3 probably require approximately 2 1/2 to 3 1/2 years of work inside
4 the containment building once we have gotten to the point
5 where we are undertaking major decontamination efforts
6 inside the building.

7 The initiation of that part of the work
8 is, I think, at least a year and perhaps somewhat longer
9 away.

10 Q Would you also briefly tell us the status of
11 the TMI-1 unit and its prospective restart?

12 A TMI-1 has been shut down since the accident.
13 It was scheduled to return to power the day of the accident,
14 having completed a normal refueling outage.

15 On July 2nd of 1979, the Nuclear Regula-
16 tory Commission issued an order directing that Three Mile
17 Island Unit Number 1 would not be permitted to operate until
18 hearings had been held before an Atomic Safety and Licensing
19 Board as to the ability to operate it safely. It identified
20 in that order that the NRC would subsequently issue another
21 order to set forth the concerns they had as to whether or
22 not it could operate safely. That order was issued on
23 August 9, 1979, which identified approximately -- or/identified ^{it}
24 8 areas to be reviewed before the Atomic Safety and Licensing
25 Board, and they included the modifications that were being

1 required to be made of all operating plants to the extent
2 they were applicable and obviously varied somewhat from one
3 type to another; the status of preparation for response to
4 emergencies by the Company in the State; the financial
5 capability of the Company; the treatment of radioactive
6 waste from both Unit 1 and Unit 2; the separation of Unit 1
7 from Unit 2 and the degree of independence of the cleanup
8 from the safe operation of Unit 1 and vice versa; the manage-
9 ment capability of the Company; and, the status of the
10 training of the operators.

11 The majority of these items were not
12 unique to Three Mile Island Unit Number 1 or to Metropolitan
13 Edison Company. I think that the accident clearly raised
14 the issue of the management of the facility and of our
15 activity because we were the ones that had the accident.

16 Also, the existence of Unit 2 in the
17 contaminated state and activities involved with decontamina-
18 tion of it are obviously unique to the operation of Unit 1,
19 but I don't know that all the issues being addressed are --
20 at least for approximation, were issues that existed with
21 regard to any operating facilities.

22 Nonetheless, we were required in the
23 NRC orders to have hearings on all of those issues followed
24 by a decision based upon the record/developed during those hearings
25 by the Nuclear Regulatory Commission as to whether or not

1 Unit 1 should be permitted to operate.

2 The hearing and related activities were
3 forecast in August of 1979 to take about one year, and on
4 that forecast the hearings themselves would have started in
5 early February of 1980. The hearings, in fact, started on
6 October 15, 1980 and rather than the two months that was
7 provided for in that forecast, I think it's reasonable to
8 expect that the hearings will take on the order of 4 to 6
9 months at least with some vulnerability to even extend beyond
10 that period.

11 Subsequent to the completion of the
12 hearings themselves, there is the time necessary for the
13 Board to develop its recommendations to provide to the
14 Nuclear Regulatory Commission and the various administrative
15 processes involved in arriving at that point, so that we
16 would anticipate that it's likely to be the latter part of
17 1981 before we will have authorization from the NRC to
18 proceed with the operation of Unit 1.

19 In the meantime, we have been proceeding
20 with the modifications to upgrade the systems of the plant,
21 to enhance the safety of operation, the organizational
22 changes, staffing changes which I described briefly initially,
23 the modifications of the procedures and training of the
24 people, the upgrading of the emergency plan, the interaction
25 with the State and local authorities with regard to the plan

1 all directed at a return to power operations August 30 of
2 1981. We are still targeting our effort toward achieving
3 that date. However, I think that based on what we know right
4 now we probably will not be able to quite meet that date.
5 We have identified at this point on the order of two months
6 slippage in that schedule or potential slippage in the
7 schedule, and that in conjunction with the status of the
8 hearings and the prognosis for the completion of those, I
9 think, leads to an expectation that we are looking at the
10 end of 1981 as the earliest return to power operations for
11 Unit Number 1.

1 A (Continuing.) I think that we can be ready
2 from a hardware and from a software standpoint to operate
3 the plant consistent with the progress of the hearings. We
4 are attempting to pace our expenditures to achieve a readi-
5 ness to restart, to be consistent with the prognosis for
6 the hearings. But, there is certainly an ability to acceler-
7 ate these efforts to some extent if the hearing process were
8 to appear to improve in its timing.

9 We currently are continuing with the prepara-
10 tions for the restart. I think it's probably important to
11 realize that as the hearing time period is stretched out,
12 the requirements that the Nuclear Regulatory Commission has
13 imposed upon us as needing to be complete prior to restart,
14 have also increased.

15 They include in their requirements the addi-
16 tional insights and understandings of what needs to be done
17 on all plants as they have occurred during the last year-
18 and-a-half. I think that's generally the status there.

19 MR. KIRSTEN: Thank you, sir. Those
20 are all the questions I have.

21 MR. NARDELLI: Judge Marshall, my plan
22 was at this point to present two public wit-
23 nesses for a total of about ten minutes. The
24 general subject to be discussed are problems
25 with discontinuance and so forth. Would that

1 be satisfactory? I might say that we would
2 resume with the cross-examination after that
3 presentation.

4 JUDGE MARSHALL: Is there any objec-
5 tion?

6 (No response.)

7 JUDGE MARSHALL: All right, we will
8 proceed that way.

9 MR. MARDELLI: All right, I'll begin
10 by calling Ms. Diane Fahey.

11
12 D I A N E L. F A H E Y, previously sworn, resumes
13 the stand.

14 FURTHER REDIRECT EXAMINATION

15 BY MR. MARDELLI:

16 Q Ms. Fahey, do you have a statement to make?

17 A Yes, I sure do. First, I want to thank you
18 again. It will only take a few moments of everybody's time.

19 I might start by saying that I dispute any
20 testimony that was just given by the Vice President of CPU,
21 et cetera. His name has just left me, although --

22 Q Mr. Arnold.

23 A Mr. Arnold. I firmly believe that TMI-1 and
24 TMI-2 can never be returned to service because of a cooling
25 device that is dependant on one and the other. And, I

1 dispute all the testimony and I hope that in the near future
2 before this is ended that I might give my rebuttal to this
3 in a more accurate way after I investigate all this testi-
4 mony through transcripts.

5 If I may return, of course, that will be de-
6 cided by the Judge and everybody else, but if I may return
7 I do wish to give my rebuttal to this statement at that
8 time.

9 My main reason for being here today again is
10 the discontinuance of service that I had been threatened
11 with. As Your Honor knows, the last time I testified,
12 which I believe was the 21st, I was threatened. At that
13 time Mr. Kirsten chose to stand up in front of a group of
14 people here and threaten me. I use the word "threaten" be-
15 cause that's what I believe happened to me. He told me I
16 had 48 hours to pay my bill. If I did not pay it, I would
17 be disconnected.

18 I then came home that day and said, "Well, I
19 am not going to be threatened. I am not going to pay my
20 bill because I believe I'm within the right." Not that I
21 am withholding, Your Honor, the energy adjustment charge,
22 because I know it has been heard and duly approved by the
23 Supreme Court under the Redi-Flo case, when it represented
24 one or two or three dollars of our bill at that given time
25 in October of 1979. I am questioning the fact that shall

1 the ratepayer for any uninsured cost, any replacement fuel
2 or anything related to any extended outage due to refueling
3 of any nuclear plant, such as Three Mile Island -- Oyster
4 Creek and then Three Mile Island, the accident that occurred
5 that our Board of Public Utilities of the State of New
6 Jersey is most willing to have the ratepayers pay, should
7 they pay?

8 Now, again, I have been threatened. I was
9 given the 48 hours.

1 A (Continuing) When I came home I made contact
2 with Mr. Wardelli and he informed me that I had 72 hours.
3 I said: "Where did I get the 72 hours from?" He said that
4 the Board said that I had 72 hours. He said that the Board
5 of Public Utilities said that I had 72 hours to pay. I
6 informed ^{Mr.} Wardelli that no one contacted me. Was this again
7 behind closed doors?

8 But, on the other hand, I had written
9 a letter to the Board of Public Utilities and I have asked
10 for a hearing. I have asked that the due process of law
11 be granted to me and to let a Judge decide.

12 Now, the reason I stopped payment on
13 one check of \$55 is because I did not receive an itemized
14 bill. I was told at the Lakewood office that I was no
15 longer in the computer system so, therefore, they could not
16 tell me why my bill rose from \$98 to \$155 and change, when I
17 walked in there to pay my bill. That's all I asked them.

18 I informed the Board of Public Utilities
19 -- I was on the phone with the Board of Public Utilities
20 for four hours trying to make a reasonable deferred payment
21 and I asked them: "Can you please find out why my bill rose
22 and why they won't give me an itemized bill?"

23 The Board of Public Utilities informed
24 me that you do know the rules and regulations and, therefore,
25 we must make contact with the utility company first

1 before we can tell you how much money you must pay the
2 utility company. I told them, I said, "Well, I'm more than
3 willing to pay my \$100 because that was the amount that I had
4 used at the time of being disconnected." That was not in
5 question. The balance was in question.

6 So consequently Mr. Kirsten again
7 threatened me. I was not turned off in 48 hours, I was not
8 turned off in 72 hours, but I received another letter, a
9 threatening letter from the GPU, certified, that if I don't
10 pay up within -- by tomorrow -- I will be disconnected again
11 by the 31st.

12 The Board of Public Utilities has not
13 answered my letter. They have not given me a hearing date
14 under due process of law. All I want is to be heard. Then
15 if they feel, if the utility company feels they have a solid
16 case, then shut me off. If they don't feel they have a solid
17 case, then don't shut me off.

18 What happened yesterday was something
19 very, very disheartening and very challenging to the People's
20 Utility Fight.

21 We have always been concerned about the
22 threatening letters that the GPU and JCP&L have been sending
23 out to the utility companies who withhold the energy adjust-
24 ment charge.

25 Again, I use the word, threatening.

1 Yesterday, members of the People's Utility Fight sat over
2 Mr. and Mrs. Charles Blanchard's house and challenged the
3 utility company on whether they will actually turn off a
4 customer withholding the energy adjustment charge, again
5 excluding the fact that we do know it was heard before under
6 the Redi Flo case.

7 But, the facts that are evident right
8 now and the increases that are evident, up to 62 percent of
9 the bills representing LEAC, are very high. The seniors,
10 the middle class, it hits all walks of people. This is what
11 we are challenging. Do they have the right to be granted
12 all of these increases without due process of law?

13 I am knowledgeable to the fact that right
14 now it will be heard in the Supreme Court in the near future
15 to show who is at fault. That I have received over the
16 weekend. I am glad this is happening.

17 But until then, I think today there
18 should be a decision that should be made as to, can the
19 utility disconnect or can't they disconnect on these grounds?

20 If they can't disconnect, then these
21 threatening letters should be stopped.

22 This should not be continued.

23 I have Mr. Charles Blanchard who is
24 here with me today and he will testify that he was not
25 disconnected yesterday after receiving threatening letters

1 to be disconnected.

2 Why was he not disconnected yesterday?

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1 A (Continuing.) If the Company stands by the
2 fact that they know they are right and they advertise in
3 the paper or give press releases to the fact that if you
4 do not pay your LEAC under the laws of the State of New
5 Jersey, which the Redi-Flo case came under -- of course,
6 they don't mention the Redi-Flo case, but if you don't pay
7 they have the right to disconnect. They don't say they
8 will.

9 We are here today to find out whether they
10 will or whether they won't. Do they have the right to dis-
11 connect under the reason why we are submitting today?
12 Number one, should the ratepayer pay -- well, before I start
13 that, I have to read this:

14 "The People's Utility Fight members are ask-
15 ing the Public Advocate, Al Nardelli and Stanley Van Ness
16 to investigate the legality of GPU and JCP&L's threatening
17 letters directed to ratepayers who withhold energy adjust-
18 ment charge, which states the ratepayer is subject to dis-
19 continuance of service. Said letter was approved by the
20 Board of Public Utilities in Newark, New Jersey.

21 "On October 29th, 1980, a PUF member, People's
22 Utility Fight, was to be terminated from service by JCP&L
23 for non-payment of energy adjustment charge, I believe, of
24 \$142 of his bill. Charles Blanchard disregarded the
25 threatening letter and the discontinuance notice to force

1 this issue to a head as to whether JCP&L can discontinue
2 service before our complaints are duly heard in the proper
3 court. Should the ratepayer be responsible for uninsured
4 clean-up costs? Should the ratepayer be responsible for
5 replacement power from the accident of Three Mile Island?
6 Should the ratepayer be responsible for extended outages,
7 such as the most recent one in Oyster Creek?

8 "Three Mile Island, Forked River are no longer
9 used and useful. Thus, a ratepayer should not be responsible
10 to pay for construction when, in fact, we are not receiving
11 the power.

12 "Since the accident at Three Mile Island, the
13 ratepayers have had six increases totaling over 300 million
14 which increased bills by 50 percent and placed entirely too
15 many ratepayers into an extreme financial difficulty. The
16 People's Utility Fight clearly stated in the past and will
17 continue to state that no ratepayer will pay for mismanage-
18 ment, possible negligence and bad investment, plus said
19 allocations in previous paragraphs in this document.

20 "On the contrary, the preferred stockholders
21 will." And, again, in previous testimony, Your Honor, I
22 have asked many, many questions and to this day I have asked
23 where the spent fuel account is. I have asked where the
24 deposit money is. I have asked where the containment of
25 funds are once the plant is no longer being functional

1 after a 30-year period. I have asked many questions. I
2 have asked for an open audit into GPU and JCP&L, a public
3 audit.

4 The only thing I ask now is, am I entitled
5 to this or is the Public Advocate representing the people
6 of the State of New Jersey; is he, you know, being that he
7 is entitled to it, can he then give me the information to
8 give back to the people that I represent? These are all
9 questions that are going unanswered. But, I would surely
10 like to know before any of these rate increases are granted
11 what stand do we have in order to be knowledgeable of this?

12 Do we have the right, does JCP&L or GPU have
13 to be answerable to the people of the State of New Jersey
14 or do we have to go through the Public Advocate, which I
15 don't mind at all, but I would like the answer one way or
16 the other, whether it be through the Public Advocate or
17 whether it be -- and I am directing the question to whom-
18 ever it may be.

19 We believe that we do want the answers and
20 we would like to see them in black and white as to where
21 all this money is. Where is the money for the meter readers
22 or the meter rentals -- or most recently they changed it.
23 It's 7.25 per month, I believe, and it comes to 60 million
24 or \$600,300,000 a year. There is no expense involved with
25 that. That's found money.

1 A (Continuing) Where is this money in this rate
2 hearing, and is it true that energy adjustment charge is being
3 rolled back into rate base without our knowledge? And is it
4 true that tomorrow there is a hearing going on at the Board
5 of Public Utilities where somebody is petitioning or JCP&L
6 is petitioning the Board of Public Utilities that they don't
7 want public intervenors anymore?

8 These are all things that are coming
9 from my telephone. And, I will be back up here tomorrow and
10 our group will be here again tomorrow/^{or}at the proper hearing
11 date and at the proper hearing room. But, is this true?
12 If it weren't for the fact that I have people contacting me,
13 we wouldn't know all this. And I think it should be continued,
14 that people should be able to intervene providing it's not
15 repetitious and providing that they are very knowledgeable.
16 And I think the People's Utility Fight has presented very
17 knowledgeable people with a very good background.

18 That's it, Your Honor, and I thank you.

19 JUDGE MARSHALL: Thank you. I will
20 note for the record that there is no hearing
21 scheduled for tomorrow. Also, I'm limited to
22 decide only those questions that are sent to
23 me by the Board of Public Utilities.

24 MR. NARDELLI: It might be helpful,
25 Judge Marshall, if at some point the Company

1 did put on the record how they are treating
2 any funds being collected through rates for
3 decommissioning and spent fuel, if there is
4 a separate account for that.

5 The deposits, I think we have on the
6 record already. I believe that it's not in
7 a separate account and our witness will be
8 taking the stand on that.

9 But as a transcript request, perhaps
10 the Company could answer Miss Fahey's ques-
11 tion specifically, at least regarding spent
12 fuel and decommissioning.

13 MR. KIRSTEN: As far as decommissioning,
14 the Company proposed that that money be put
15 into a separate trust fund. It was Rate
16 Counsel's suggestion that it not be used in
17 that manner, but that it be credited as a
18 fund which would be used by the Company as
19 other monies and that the return on that
20 fund be, in fact, paid to the ratepayers
21 through a credit to rate base. That's the
22 way it's being done, just as our depreciation
23 reserves are being handled.

24 The question of the trust fund was
25 actually proposed by the Company.

1 MR. NARDELLI: On that, I think the
2 record should reflect that this proposal --
3 and Mr. Kirsten is certainly right about the
4 fact that the Company did propose it, it was
5 made and dealt with prior to the accident at
6 Three Mile Island. And I think as a result
7 of the Company's financial situation since
8 the accident that all parties might want to
9 rethink their position as to whether there
10 should be a separate fund for it.

11 JUDGE MARSHALL: If you wish to present
12 witnesses on that issue and brief it in the
13 final briefs, that is your option.

14 THE WITNESS: May I ask Mr. Kirsten a
15 question? Do I have the right to ask Mr.
16 Kirsten a question relating to this?
17 Do I have the right, Mr. Kirsten?

18 MR. KIRSTEN: I'm not here to answer
19 your questions, Madam.

20 THE WITNESS: May I make a statement,
21 then, for the record?

22 MR. KIRSTEN: Mr. Nardelli asked me
23 for a statement on the record, and he is a
24 party to these proceedings, and I tried to
25 respond to his request.

1 THE WITNESS: May I have something on
2 the record? May I say something?

3 JUDGE MARSHALL: Yes.

4 THE WITNESS: If I'm correct in what Mr.
5 Kirsten was saying, it's that he has used this
6 money, but has lowered our rate base? If I
7 am not correct, please correct me, somebody.
8 I think that that is a very inappropriate way
9 to run a corporation that is in such a dis-
10 asterous way as yours because number one, is
11 the ratepayer paying extremely, possibly
12 extortionist rates right now which we will
13 find out in the future? But secondly, we are
14 going to be charged double for something we
15 paid already which is the spent fuel account,
16 and I don't believe you have the right no
17 matter where it came from or who gave it to
18 you, I don't believe you have the right to
19 use that money, if you don't have it available
20 at the given time when it's needed.

21 And the same thing with the containment
22 of the plant in the 20 or 30 years or 10 years,
23 whatever the life expectancy is that's left
24 of that.

25 This is money you have already taken

1 from the ratepayers. And, your future of
2 these nuclear plants that you solely desire
3 to put all your eggs in one basket, and our
4 stockbroker and our accountant has frequently
5 testified against it, is extremely frustrating
6 and economically inaffordable as far as the
7 ratepayers are concerned.

1 MS. FAHEY: (Continuing.) Now, I
2 know what you're going to do about the future
3 of your plant or your defending of the plant,
4 Mr. Kirsten, but something drastically needs
5 to be done, whether you reorganize or what
6 you do. But you cannot any longer look to
7 the ratepayer and expect to get a return to
8 pay for your problems or your possible mis-
9 management which is almost a proven fact.
10 And, only the Supreme Court in the near future
11 will decide that.

12 And I will tell you, the People's
13 Utility Fight will be involved on that issue
14 and will be testifying as such. And, I would
15 appreciate it if your Company from henceforth
16 does not threaten me anymore, including your-
17 self.

18 And I will tell you something else on
19 the record. If my electric is terminated
20 tomorrow without due process of law, which I
21 don't know whether you are involved with, or
22 if the Board of Public Utilities does not
23 allow me the time to express my case as to why
24 I stopped payment on one check, \$55, then I
25 will hold your Company liable for anything

1 that happens to myself or my children. The
2 first time you disconnected me on a delinquent
3 notice which I disregarded, just tossed aside
4 myself, and then after I became involved in
5 this fight, many other people did, too, that
6 was a different story. But this time I don't
7 know whether you are harassing me or whether
8 you are harassing Mr. Blanchard that's going
9 to come up next to testify, but I don't think
10 we deserve harassment and I don't want it.

11 I am willing to pay my fair share but
12 I will not pay for anything that I feel is
13 unjust or unreasonable. Under the Constitu-
14 tion of the State of New Jersey and under the
15 monopoly laws that protect us, the Fair Trade,
16 all of it, I will fall under that and I hope
17 tomorrow that I will have electricity in my
18 home.

19 If there is any law that I might find --
20 and I assume that you would do the same thing
21 to me, if there is any law that protects me,
22 I will find that law and if anything happens
23 to me or my children, you will be responsible,
24 you or the Board of Public Utilities, one of
25 the two, whoever is allowing this to happen

Fahey-

tomorrow.

I thank you very much. I know I ex-
tended my time but I thank you.

1 MR. NARDELLI: I call Charles Blanchard.

2 JUDGE MARSHALL: I would just note for
3 the record that Mrs. Fahey was also sworn in
4 previously, and I believe that Mr. Blanchard
5 has also been sworn in previously.

6 MR. NARDELLI: Yes, sir.

7 C H A R L E S P. B L A N C H A R D, previously sworn,
8 resumes stand, and testifies as follows:

9 THE WITNESS: Judge Marshall, I'd like
10 to make a few statements about the Cap Laws in New
11 Jersey. It seems the workers are the ones that are
12 applied to this Cap Law, that this Cap Law applies
13 to.

14 JCP&L has had seven increases in approxi-
15 mately 19 months, and I think that we are being held
16 hostage for extortion purposes.

17 The energy adjustment charge, in my
18 estimation, is only a by-pass for rate increases,
19 and an unconscionable charge. We are backing two
20 freeholders from Ocean County, George Buckwald and
21 Damian Murray, both Republicans, and Lou Weinstein
22 for U.S. Senator for New Jersey, who is a Democrat.

23 I have had letters from JCP&L, June
24 2nd, and they say that my partial payment was
25 credited to my account, that the energy adjustment

1 is a legal part of the bill and has been approved by
2 the Board of PUC, Public Utility Commissioners, and
3 if payment is not received, it will appear as a
4 previous balance of a subsequent bill and will
5 eventually generate a delinquency notice and that
6 this matter will cause your service to be subject
7 to disconnection, if it is not paid in full.

8 Now, that was in JUNE. As a matter of
9 fact, I got two of these in June.

10 Then, I had sent with each one of my
11 bills, as you know, a statement saying that we were
12 withholding the energy adjustment charge. I have a
13 copy here. I believe Diane Fahey gave you one the
14 last time she was up here -- why we were withholding,
15 because we think it is illegal --

16 A VOICE: May I ask one thing? Can I
17 ask that he read that statement now?

18 THE WITNESS: This isn't the latest
19 one, but it's basically --

20 A VOICE: Is that the latest one?

21 THE WITNESS: No, it's not the latest.
22 This says, "We hereby notify you of our intent to
23 withhold --" Do you want me to read this all?

24 JUDGE MARSHALL: Do you want to go
25 off the record and engage in a conversation with

1 Ms. Fahey?

2 THE WITNESS: Yes, that would be better.

3 (Whereupon, there was an off the
4 record discussion.)

5 JUDGE MARSHALL: All right, back on
6 the record.

7 THE WITNESS: This notice I had sent
8 to the Board of Public Utilities and also to several
9 Congressmen, each time I paid my bill, and I would
10 leave one with the Jersey Central Power and Light
11 Company: "We hereby notify you of our intent to
12 withhold the LEAC portion of our monthly bill. We
13 act on this based on our Constitutional Right under
14 the Federal and State Constitutions and hereby demand
15 that you answer the allegation that:

16 The revenue generated by this super-
17 fluous, exceeding what is sufficient or necessary-
18 surplus, charge is not strictly used for the purchase
19 of fuel; rather that these dollars, in part or total,
20 are being spent on the cleanup, repair or replacement
21 of equipment damaged at Three Mile Island.

22 We hereby exercise our right and charge
23 the Board of Public Utilities with the responsibility
24 for full disclosure on this charge as it is our
25 opinion that this charge is not a just and reasonable

1 rate for replacement fuel, such rate as specified
2 under the New Jersey Constitution for the proper
3 collection and utilization of funds for a utility
4 monopoly." And then at the base of the letter here,
5 wa, like I said, the Board of Public Utilities
6 received one and Diane Fahay's office received one,
7 and, of course, I added a few more to it myself on
8 my own, which I have receipts here, certified letter
9 receipts to Eugene Bedell, in Keansburg and Thomas
10 Gagliano in West Long Branch.

1 THE WITNESS: (Continuing.) I have received
2 a delinquent notice October 1. I had paid the bill
3 in the morning and in the afternoon mail I had this
4 in my mailbox, and then I received another one. I
5 didn't pay the energy adjustment charge; I just paid
6 the kilowatt hours, and then the last time we were
7 up here, I have a letter that I brought up here --
8 I had this delinquent bill sent to me on the 23rd
9 in my mailbox, in my mailbox on the 23rd, saying
10 that I was going to be shut off on October 29th.

11 Now, I say in my letter here, which I want
12 recognized, that we of the People Utility Fight,
13 along with our President, Diane Fahey, are in the
14 process of the Levelized Energy Adjustment Charge,
15 whereas it is known as the LEACH account, that's the
16 way it sticks to us, and we must rid ourselves of
17 this unjust charge to all customers of JCP&L, that
18 we are testing the legality of this charge and we
19 do not wish to pay for mistakes made by a mis-
20 managed Company as JCP&L has done to TMI and Oyster
21 Creek.

22 This act of turn-off or threat of turn-off
23 is direct harassment by Mr. J. Kirsten, lawyer for
24 JCP&L, and I can back the last statement by our
25 court appearance in Newark, New Jersey, on October 21

1 when Mr. J. Kirsten turned in rage and gave Diane
2 Fahey 48 hours' notice of turn-off. Now, two days
3 later, on October 23, 1980, other members of the
4 FUF received delinquent notices and they gave a turn-
5 off date of October 29, 1980. These notices were
6 given for not paying the Levelized Energy Adjustment
7 Charges, which is in dispute, the disputed part of
8 our bill, and I would like to present this to Your
9 Honor.

10 Now, we waited all day yesterday, that was
11 Wednesday, Wattless Wednesday, and we waited all day
12 and one of our members called the Utility Company and
13 asked when the shutoff hours were, and they were from
14 8:30 in the morning to 3:30 in the afternoon, and
15 there was no shutoff.

16 I am here not only for myself but for other
17 people who are really hurting. Now, my energy adjust-
18 ment bill for the past six months, let us say, is
19 \$142.06, which doesn't mean anything to me, really.
20 I have it in escrow in a bank account, a special
21 account. But, I am fighting for the rest of the
22 people of the State of New Jersey that has JCP&L.

23 Now, seven increases in 19 months is a little
24 bit much, and where do we stop? We have children
25 coming into this world, grandchildren. Where are

1 they going to go? The bills will be so high they
2 won't be able to afford them. And, again, I say
3 these raises are unconscionable.

4 I think that's about it, your Honor.

5 JUDGE MARSHALL: Mr. Nardelli, anything?

6 FURTHER DIRECT EXAMINATION

7 BY MR. NARDELLI:

8 Q Mr. Blanchard, have you notified the Board
9 of Public Utilities that you are withholding this amount
10 and that you are requesting a hearing on whatever your con-
11 tentions are?

12 A Well, I have listed on the withholding state-
13 ments that we have -- I put my account number and each month
14 I tell them that I didn't give them the amounts that I with-
15 held, but each month when I get my bill, I go to the bank
16 and put the energy adjustment charge in the bank, in that
17 savings account, and then I go to Jersey Central and I hand
18 her the bill with one of these every month.

19 Q Excuse me, Mr. Blanchard. My question is:
20 Have you notified the New Jersey Board of Public Utilities
21 that you are withholding a certain sum of money and have
22 you requested a hearing from the Board on the reasons why
23 you are withholding it?

24 A Well, I believe this statement --

25 Q Yes, that is your reasons. Is that addressed

1 to the New Jersey Board of Public Utilities?

2 A Yes.

3 Q That was my question.

4 A This is addressed to the Board of Public
5 Utilities, 1100 Raymond Boulevard.

6 Q And in that letter, excuse me, I guess I
7 should remember because I believe you read it, but did you
8 request some sort of hearing from the Board or --

9 A Yes. We said that they should help us with
10 this; that we demand an answer for the allegation under
11 the Federal and State Constitutions, and hereby demand that
12 you answer the allegation. That's right under the second
13 paragraph.
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1 MR. NARDELLI: I would just ask Deputy Attorney
2 General Bello and a member of the Board's Staff, Paul
3 Slavin, to just check the file on these two cases
4 just to see if the Board knows the facts and if the
5 Board wishes to take a position. That's all I am
6 asking them to do, to find out if the Board is aware
7 of these two cases and if the Board is satisfied that
8 the cases are being handled by the utility in the
9 proper manner.

10 JUDGE MARSHALL: We will go off the record
11 shortly and you can discuss that off the record.

12 THE WITNESS: Excuse me, Your Honor. Will
13 this help? (Indicating)

14 JUDGE MARSHALL: Mr. Nardelli?

15 THE WITNESS: Would this help? (Indicating)

16 MR. NARDELLI: I don't need it. Perhaps Deputy
17 Attorney General Bello might want to see if.

18 MS. BELLO: I would want to ask the witness
19 if he ever received a response from the Board con-
20 cerning this letter.

21 THE WITNESS: Yes, I have. I am glad you
22 mentioned that.

23 October 27th from Mr. George H. Barbour,
24 President.

25 "This is to acknowledge receipt of your

1 correspondence in reference to your action in with-
2 holding the Levelized Energy Adjustment Charge por-
3 tion of your bill.

4 Let me first explain that the LEAC was designed
5 in order for the Company to recover those costs of
6 producing energy which are not recovered in the base
7 rates. By definition, only fuel costs associated
8 with the generation of electrical power are to be
9 included in this type of charge and certainly no
10 revenues are accrued to the Company by the establish-
11 ment or change in the LEAC rate.

12 The Board's Staff has closely analyzed and
13 reviewed JCP&L's LEAC increases, and I can assure
14 you that no clean-up costs related to the Three Mile
15 Island accident have been passed to the ratepayers
16 in any charge.

17 The Board has taken several steps to minimize
18 the electricity cost paid by the consumers. However,
19 JCP&L as well as the Board has no control over cer-
20 tain factors such as the cost of oil and general
21 inflationary trends that directly or indirectly
22 affect the cost of electric generation.

23 The large increase you note in the LEAC is
24 primarily due to the exclusion of nuclear generation
25 from JCP&L's total generation. It is important to

1 point out that in 1978 over 50 percent of JCP&L's
2 electrical generation was nuclear, which is an
3 extremely low cost form of electrical generation.

4 When the nuclear generating capacity was
5 lost because of the Three Mile Island accident,
6 JCP&L had to replace this nuclear generated electricity
7 by oil-fired generating units.

8 Needless to say, that given the rising oil
9 prices, the cost of oil generated power is much
10 higher than that generated by nuclear energy.

11 I should point out that prior to any revision
12 in the LEAC, the Board conducts public hearings within
13 the Company's service area as well as evidenciary
14 proceedings in Newark, in accordance with the pro-
15 visions of the New Jersey Administrative Code.
16 The revised energy adjustment factor is filed at
17 the Board with the Company's tariff.

18 I may further add that a tariff required by
19 law to be filed by a utility company is not merely
20 a contract; it is the law. The Board is, therefore,
21 duty bound to inform you that withholding payment of
22 the Levelized Energy Adjustment Charge cannot be
23 sanctioned. Those arrearage payments should be
24 paid within a reasonable time or the utility may
25 lawfully discontinue service to you."

1 This is signed by George H. Barbour. That's
2 it, Your Honor.

3 JUDGE MARSHALL: Thank you.

4 THE WITNESS: This is signed by George H.
5 Barbour. It is not a rubber stamp.

6 MR. BELLO: Judge Marshall, in response to
7 Mr. Nardelli, I believe that President Barbour, in
8 that letter, has set forth the basic position of
9 the Board, and that is that the LEAC is a legitimate
10 charge, that it has been set in accordance with
11 hearings at which time the public's representative,
12 the Public Advocate, has appeared.

13 But, as Mr. Nardelli has requested, I will
14 check the file and bring the Board's attention to
15 the fact that obviously the witness does not con-
16 sider that a satisfactory answer.

1 THE WITNESS: No. I still feel that, your
2 Honor, that I feel these charges are being bypassed
3 in the energy adjustment charge, that they are in
4 excess. Now, before Three Mile Island, it was 52 cents
5 on my bill. Now the way I figure it out, it's about
6 340 percent on the bill because it went from 52 cents
7 to \$17.92 for the basic -- for just about the same
8 kilowatt hours, which is like paying another mortgage,
9 and people with total electric are in dire straights.

10 As a matter of fact, we have one of our mem-
11 bers down in Delaware right now because she can't
12 afford to turn her electric on. She just has an in-
13 come of Social Security disability benefits, that's
14 what it is, and they can't meet their bills. They
15 have total electric, which Jersey Central said "Come
16 on in, folks, we are giving you a low rate, go total
17 electric." Now, all senior citizens are on total
18 electric and many of our younger members of our club
19 are on total electric, and now the rate is high. They
20 can't handle it. I mean, everybody doesn't make
21 thousands of dollars like Mr. Kirsten or I or any-
22 body else.

23 These people are in dire straights. They make
24 like \$150 a week. I mean, where are they going to
25 go?

1 Thank you very much.

2 MISS FAHEY: May I take a moment to take the
3 stand again to give rebuttal to a statement that was
4 made?

5 JUDGE MARSHALL: Is there any objection from
6 any of the parties?

7 (No response.)

8 JUDGE MARSHALL: All right.

9 MR. KIRSTEN: Your Honor, I would just say
10 that Mr. Arnold is under a time constraint, as was
11 mentioned before, and we would like to finish with
12 him this afternoon.

13 MR. MARUL: Your Honor, I still think that we
14 can finish with Mr. Arnold by 3:30.

15 JUDGE MARSHALL: All right.

16
17 D I A N E L. F A H E Y, previously sworn, resumes
18 the stand.

19 THE WITNESS: We certainly don't want to take
20 any time away from Mr. Arnold and we are here also
21 to listen to Mr. Arnold's testimony, too, and to take
22 notes. But, the Board of Public Utilities' member --
23 I am sorry, I don't know your name.

24 MS. BELLO: Carla Belio, Deputy Attorney
25 General, and I represent the Board of Public Utilities

1 in this proceeding.

2 THE WITNESS: I think that Carla Bello does
3 not fully understand our position. We are not chal-
4 lenging the legality of the LEAC, as I emphasized
5 before, and I stressed before. We know it has been
6 heard and duly approved in the Court in October of
7 1979, in the Redi-Flo case. A long-term goal of
8 Peoples Utility-Fight is to challenge that, although
9 we are well aware that the Public Advocate's office
10 had appealed the case, too, and unfortunately lost.

11 Eventually, we will hopefully reopen the case.
12 Now, that is not our challenge. We recognize that it
13 has been duly approved. What we are deeply concerned
14 about now is the effects of Three Mile Island on the
15 people and the extreme increases, the exorbitant
16 amount of increases that have been happening and been
17 granted, and the effects of these increases on the
18 people.

19 Most of all, are these increases just and
20 reasonable? Should the Utility pay? Should the pre-
21 ferred stockholders pay? And, I think this is what
22 dealing with, should the ratepayers pay or should
23 we put the responsibility on the preferred stock-
24 holders?

25 All right, the common stockholders are not

1 being paid, unfortunately, and I will go on record
2 that I do not like the idea that the common stock-
3 holders are not being paid for one simple reason.
4 These people are retired and they look forward to
5 those dividends incorporated and within their Social
6 Security checks, and this is what they look forward
7 to. This is their life and they are being penalized.

8 The preferred stockholders are going along
9 and reaping the benefits and not absorbing any of
10 the complications or the possible negligence that
11 they possibly could have incurred.

12 Who are the preferred stockholders? Are they
13 the owners of the Company?
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1 THE WITNESS: (Continuing) So, again, we are
2 not here -- and those letters, those threatening
3 letters being sent out, I wish they would stop
4 immediately because we do know that this has been
5 duly approved in the Supreme Court before. What we
6 don't want from this day forward is to have any more
7 of these threatening letters. If you want to challenge
8 us, Mr. Kirsten, give the order to turn off Mr. Charles
9 Blanchard and then we will go to a higher court. You
10 give the order tomorrow to turn me off, and I will go
11 to a higher court. But, when you do this, you better
12 be assured of that, and I hope that we have covered
13 ourselves quite well in this courtroom as to what we
14 are talking about and that's without an attorney that
15 we have done this thus far.

16 But, don't threaten us anymore. If you want
17 to go ahead and turn off the people, I know there is
18 one with a \$1,000 withheld in the energy charge.
19 Why don't you pick on them and not just the two of
20 us that testified. Why don't you pick on somebody
21 else that has \$400 withheld?

22 You turn off the whole State, but you do it,
23 but don't turn me off and don't you turn off Charles
24 Blanchard.

25 MR. KIRSTEN: If you give me those names, I

fahey-redirect

1 will be glad to check into it.

2 THE WITNESS: You have those names. It's just
3 that we didn't forward them to you. We didn't come
4 up and expose ourselves. You did that to harass us,
5 but if you feel you are on solid ground, on solid
6 ground that we, number one, must pay for your unin-
7 sured costs that you did not cover for Three Mile
8 Island and replacement fuel which is highly question-
9 able, did you purchase it at the most reasonable
10 possible cost, and why did you remain with the grid
11 for all those years until People's Utility-Fight
12 put pressure on you and our elected officials
13 responded. When you answer all those questions and
14 these questions will be thrown to you in a higher
15 court, and if anything happens to Mr. Charles
16 Blanchard or myself or anybody else that you decide
17 to turn off solely, quote, unquote, for withholding
18 these charges, that's not what we are challenging,
19 we are not challenging them because they have been
20 heard and have been duly approved.

21 We challenge the result of it and who is at
22 fault.

23 Now, you show fault, that we are at fault and
24 we will pay, but we are not at fault. Showing fault
25 will come in the Supreme Court of this State of New

1 Jersey. And, until that time, I don't think you have
2 the right to disconnect any of us. We are not out
3 here to beat you down. We are out here to defend
4 ourselves.

5 You show me -- you prepare a Show Cause Order
6 for me why you are terminating my service tomorrow
7 and for Mr. Blanchard and anybody else in this court-
8 room or for any people who are withholding -- I will
9 demand a Show Cause Order from you which would --

10 MR. KIRSTEN: I think I understand your posi-
11 tion, Mrs. Fahey. I have heard it for the sixth
12 time today.

13 THE WITNESS: I don't think so. I don't think
14 you have -- I don't think you ever heard me. I don't
15 know why -- I don't know why you didn't have the
16 nerve to stand up and tell me in a court of law when
17 I was ever up here and I was told before that that
18 I couldn't say anything because I was sitting back
19 there and --

20 MR. KIRSTEN: This is the sixth time, Your
21 Honor --

22 THE WITNESS: Why not call me up to the stand
23 and tell me that you were going to disconnect my
24 service and threaten me while I was back there.

25 MR. KIRSTEN: Your Honor, this is the sixth

1 time that we have had to listen to this. We have a
2 time pressure today, and I think that if there is
3 nothing further to be added to this record, then we
4 should proceed.

5 THE WITNESS: I hope I have covered myself
6 quite well. I do realize that you do have a timing
7 problem, and I am quite interested in Mr. Arnold's
8 testimony, too. I do hope that I am protecting my-
9 self without an attorney, you know, enough that I
10 am here as a representative of a large group of
11 people, and the reason why we are withholding the
12 LEAC charges. I hope that part of it came across
13 at least, and the other question of why they didn't
14 terminate service yesterday. If they can't do it,
15 tell us. If they are going to beat around the bush,
16 tell us. That is what we would like to have answered.
17 We don't want to be threatened any more. We want
18 the right of due process of law. Let a Judge decide,
19 and I think that's no more than fair.

20 JUDGE MARSHALL: All right, thank you.

21 At this time we will take a break for about
22 five minute.

23 (Whereupon, a recess was taken.)
24
25

(After the recess.)

JUDGE MARSHALL: Back on the record.

Mr. Wardell or Mr. Nakul, do you wish to proceed with the cross-examination of Mr. Arnold?

MR. NAKUL: Yes.

ROBERT C. ARNOLD, previously sworn, resumes the stand.

CROSS-EXAMINATION

BY MR. NAKUL:

Q Good afternoon, Mr. Arnold.

From your testimony earlier, could I take it that your current position is that TMI-1 would -- the re-start is officially estimated as August 30, 1981, but there is a very realistic possibility that it would slip an additional two months?

A No, I don't think I categorized August 30th as an official date. I think the way to categorize it is that it's a target date to which we have been working toward for approximately the last four to six months, and as the elements of the work effort and schedule, that this is likely to be accomplished on, have become clear that it is -- it indicates at this time that we will have some slippage in the accomplishment of that work relative to the August 30th

1 date.

2 Q You did refer to a date of or a possible re-
3 start time, I think, throwing in some contingencies, the
4 end of 1981. Is that correct?

5 A Yes.

6 Q Would that mean November or December of 1981?

7 A Yes. I think that that time frame is the
8 most likely time for return to power operations based upon
9 what we know today.

10 Q Given that it is now October 30, 1980, that
11 means that what you would perceive as the most likely re-
12 turn to service date would be at least a year away.

13 A Yes.

14 Q Mr. Arnold, do you recall a couple of months
15 after the Three Mile Island accident, say around May 1979
16 time frame, what the estimated TMI-1 return-to-service date
17 was as of that time perspective?

18 A Yes. At that time, based upon a letter, I
19 believe the date of which was June 26th, the latter part
20 of June, anyway, of 1979, and the corrective action we
21 identify in that letter that we would want to accomplish
22 prior to the return of the unit to service, we projected
23 a return to service is about October or November of '79.

24 Q So as of, say, May 1979, you were looking at
25 a return to service in six months.

1 A Yes.

2 Q Now, about in say March or April of 1980, what
3 was the -- based on your knowledge as it was then, what was
4 your best estimate of a return-to-service date?

5 A I think that was probably about the last time
6 during which -- the last time I appeared in a proceeding
7 here in New Jersey and discussed the TMI-2 situation. I
8 have not reviewed that testimony but my recollection is that
9 at that time we were looking toward an objective of com-
10 pleting the work necessary for start-up by the end of 1980,
11 but with some uncertainty as to what would be needed and the
12 time period for accomplishing it, that it could slip into
13 the third quarter of '81.

14 Q So, in other words, in April 1980, based on
15 your best knowledge at that time, it was going to be some-
16 where from 8 to 12 months in the future.

17 A Yes.

18 Q It appears, Mr. Arnold, that the TMI restart,
19 based on your best knowledge at any particular time, always
20 seem to be about a year in the future.

21 A I think that that recounting the kind of his-
22 tory of the schedules is the right perspective from which
23 to approach a question. If we go back to the June 1979
24 time period, there was identified at that time a number of
25 items which all Babcock & Wilcox designed plants had to

1 accomplish in a relatively short time frame. Plants were
2 either scheduled for shutdowns in the very near future after
3 these items were identified, or were required to stay down
4 if they were in a shutdown mode until they completed cer-
5 tain items.

6 In addition to those items, we identified
7 some additional corrective measures we wanted to put into
8 place before we returned Unit 1 to service, including the
9 re-examination of all of our operators by the Nuclear
10 Regulatory Commission -- that is, all of our licensed
11 operators.

12 We felt at that time that that scope of work
13 was entirely adequate as a basis for the safe operation of
14 Unit 1, and we indicated that in the June letter to the
15 Nuclear Regulatory Commission.
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1 A (Continuing) The Nuclear Regulatory Commission
2 made the decision to require that the Company go through
3 the Atomic Safety and Licensing Board evidentiary type of
4 hearing on the issues that were identified in their August
5 9th Order. It added a substantial additional increment of
6 work effort which we had to accomplish not uniquely -- not
7 in the sense that no one else had to do it, but which we had
8 to accomplish before return to operation where other plants
9 were permitted to schedule that consistent with the operational
10 needs of their plants.

11 In general, those requirements were
12 divided into -- or a portion of those requirements, those
13 that were referred to as lessons learned corrective actions,
14 were divided into two categories, so-called short-term require-
15 ments and long-term requirements.

16 The short-term requirements were in
17 general required to be completed by June 1, 1980 and the
18 longer term by January 1, 1981.

19 Now, those items were identified not in
20 detail, in the sense of having analyzed what the implications
21 were of completing those items, but had been identified only
22 in a general sense, in a conceptual sense, and they referred
23 principally to modifications to the plant systems.

24 The initial order from the Nuclear
25 Regulatory Commission that -- well, not initial, but the

1 August 9th Order stated we would have to complete those short-
2 term items before return to operation and show satisfactory
3 progress on the long-term items.

4 What, in effect, turned out to be the
5 case is that because of having to meet these prior to hearings
6 and the Nuclear Regulatory Commission having to issue a
7 safety evaluation report, in which they stated their conclu-
8 sions and judgments about the adequacy of our actions on
9 those lessons learned and the other commitments that were
10 made as part of the restart, we were the first plant in
11 which the specific engineering and technical details as to
12 what would be required for those corrective measures were
13 dealt with.

14 That is, TMI-1 became the lead plant,
15 really, for resolving in detail what was required to fulfill
16 the conceptual description of the changes that were necessary
17 and under lessons learned.

18 For the short-term items it became
19 obvious as one got into those issues that they could not
20 be completed by the first of January of 1980, and that was
21 true not only for us, but it was true for other plants as
22 well, and that impact of those short-term lessons learned
23 accomplishment were the primary cause of the requirement
24 stretching out into late '81 -- excuse me, late 1980,
25 sort of the first major slip.

1 A (Continuing) As it became obvious that the
2 hearing schedule was going to stretch out substantially
3 longer than the one year that was forecasted or given as a
4 target schedule for the hearings in the August 9th Order,
5 the NRC took the position that we would also have to com-
6 plete the short-term items.

7 The experience with the short-term items
8 was basically the same. That is, that we and others within
9 the industry could not complete those requirements by January
10 1, 1981. This was recognized by the Nuclear Regulatory Com-
11 mission, I believe it was late this summer.

12 MR. KIRSTEN: I'm sorry, you meant the
13 long term?

14 THE WITNESS: Excuse me, the long-term
15 items.

16 A (Continuing) This was recognized by the
17 Nuclear Regulatory Commission, I believe, in late summer
18 1980 when they issued a document which gave relief for
19 accomplishment of the long-term items from the January 1,
20 1981 deadline.

21 Q Was that relief postponed?

22 A Well, they spread it out, depending on the
23 individual items. And, I think they went as late as 1982
24 or early 1982. Some of them were like mid-1981 and some
25 the end of 1981.

1 Q The schedule which you are now citing where
2 the most likely return to service date of TMI-1 would be,
3 say, August -- I'm sorry, around November or December of 1981,
4 does that include completion of the long-term items?

5 A The majority of them, yes, but my recollection
6 is that it doesn't include all of them.

7 Q Does that mean that barring further grace
8 periods from the NRC that TMI-1, if it returned to service
9 in November or December of 1981, might have to be shut down
10 all over again to complete the items that have to be completed
11 for 1982?

12 A Well, I don't think that it's probably realistic
13 to put that kind of a construction on what's likely to happen
14 because, obviously, we see ourselves getting into that kind
15 of a situation, if we do, we will attempt to accelerate the
16 accomplishment of those items so they are completed before
17 the restart and would not require a shutdown shortly after
18 startup.

19 Q But if, to get that additional work done,
20 requires more time, then the November-December 1981 date
21 could slip a little further, couldn't it?

22 A I can't dispute that as a supposition.
23 But, I don't think it's a very realistic one. I think that
24 as we gear our effort, our level of effort to the progress
25 of the hearings, we will be able to gauge the timing of the

1 completion of those items or the lack of the completion of
2 those items to the completion of the regulatory process,
3 and we would certainly expect to not have that kind of an
4 impact.

5 Q When the hearings are completed, the TMI-1
6 restart hearings, I believe it was seven or eight areas that
7 you covered in that regard, when they are completed, what
8 happens if they find the TMI situation is wanting in one or
9 more of those general categories?

10 For example, I believe you indicated
11 that the Atomic Safety Licensing Board is going to be re-
12 viewing the modifications underway.

13 A Yes.

14 Q The status or preparedness for emergency
15 response, doesn't your schedule assume that the Atomic
16 Licensing Board will find what the company has submitted to
17 be satisfactory in all respects?

18 A I don't think it assumes that it will be
19 satisfactory in all respects, Mr. Makul. but I think that we
20 have a good basis for a high degree of confidence that we
21 will have essentially satisfied all the Board's requirements.

22 The process of deciding on what corrective
23 actions are necessary, what's necessary to implement the
24 shortand long-term lessons learned takes place with extensive
25 dialogue with the Nuclear Regulatory Staff, with the knowledge

1 of what other plants are doing in response to these same
2 concerns and the Company's plans and activities are reviewed
3 by the Advisory Committee on reactor safeguards which is an
4 advisory committee of the Nuclear Regulatory Commission.

5 So, there is a lot of dialogue, examina-
6 tion, providing of insight into these issues well in advance
7 of going into hearings.

8 I think the other aspect, if I could go
9 back to what I understood to be the thrust of the initial
10 part of your question, is that -- I don't think this hearing
11 would result in a substantially different approach on the
12 part of the Board than other operating license hearings.
13 And, that's that in the event that they find there are items
14 which require further action or additional action beyond what
15 the Company has completed before the plant can return to
16 service, those things are identified by the Board and they
17 are usually in effect qualifications placed on the recommenda-
18 tions of the Board and the Company has the opportunity to
19 respond to those.

20 It's typically the case that the Nuclear
21 Regulatory Commission would issue the operating license with
22 requirements either that certain activities be completed
23 prior to the plant starting up or that they be completed
24 by the time the plant reaches a certain stage of startup

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1 or be completed by a certain calendar time, depending on the
2 nature of what they were.

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1 A (Continuing.) The TMI-2 operating license
2 initially had several pages of qualifications when it was
3 issued. The most prevalent being the fire protection modi-
4 fication. So I think should the Board decide more was
5 necessary to provide adequate assurance for safe operations,
6 they would identify, in the course of issuing that opinion,
7 what those corrective actions would be.

8 Q Would it be fair to say, then, that while the
9 potential exists for a decision out of a licensing Board
10 which would require you to go back and start over again on
11 some new modifications that you think the nature of the pro-
12 ceeding is such that you will learn what additional modifi-
13 cations or changes might be necessary in the midst of the
14 proceeding?

15 A I think we already know that for the scope of
16 the present hearings, so that I think that the only vulner-
17 ability we would have is to some new insight gained by the
18 industry concerning the problems.

19 Q You mean for example some additional problem
20 which may have cropped up at another nuclear site elsewhere
21 which is now requiring an overall response by all license
22 reactors?

23 A Yes.

24 Q Something like, just to pick one out of the
25 paper, the Indian Point type problem or Crystal River?

1 A Yes. If one of those kinds of problems or
2 plant experiences were decided to have some generic appli-
3 cation that required our particular plant design to be re-
4 sponsive, then I think that would be the case. But I also
5 think one always has that vulnerability whether they are in
6 the course of hearings or up in the operating area.

7 There is the potential for that to develop
8 anywhere.

9 Q Now, Mr. Arnold, recently the Pennsylvania
10 Public Utility Commission turned down Metropolitan Edison's
11 request for a \$35 million emergency increase. I'm sure
12 you're aware of that?

13 A Yes, I am.

14 Q Now, Metropolitan Edison, as you also know,
15 is a 50 percent owner of TMI-1. As a result of this refusal
16 by the Pennsylvania PUC to grant the emergency increase, has
17 this affected in any way the overall budget available for
18 TMI-1 work?

19 A The planned level of expenditures as of mid-
20 1980 for the balance of 1980 and '81 are the level of ex-
21 penditures that we are continuing to apply, or the level
22 of resources we are trying to apply to the Unit 1 restart
23 preparation. Although we reviewed the activities at TMI
24 in light of the very tight financial conditions that exist
25 for Metropolitan Edison Company and did cut them back from

1 the level that was actually being expended in the August-
2 September time frame of 1980, the level to which we have
3 adjusted them is the budget level.

4 Now, we are currently in the process of de-
5 veloping the 1981 budget and my expectation is that we will
6 probably increase the level of resources being applied to
7 1981, that is, increase the budget for 1981 for TMI Unit
8 No. 1 above that level that was planned as of the middle
9 of 1980.

10 What we are basically keying to is to insure
11 that we will be able to restart the unit by the end of the
12 year if the hearing process is completed.

13 Q Well, I have a publication here which is put
14 out by GPU or one of its affiliates called: "TMI, Today."

15 A We published that from Three Mile Island.

16 Q And this is the September 1980 issue which
17 was published after the Pennsylvania PUC's decision to re-
18 fuse the \$35 million emergency rate increase.

19 On Page 4, we have an entire page here, "GPU
20 program under way since accident, station initiates scrip-
21 tent cost-cutting measures." And, under Unit No. 1, you
22 list specific activities which I assume these are the
23 activities which are in the long-term plan, and you have
24 actions required. Am I correct that these are actions re-
25 quired as a result of the cost-cutting measures?

1 A Yes; the actions required here are those things
2 that we undertook to bring the level of expenditures down
3 to the budgeted level.

4 Q Well, just to cite what they are, the first
5 one is, "Significant reduction in overtime with prior ap-
6 proval by directors for exempt personnel and managers for
7 non-exempt personnel." What kind of overtime was occurring
8 for what kind of activities which are now being reduced?

9 A Well, the activities being pursued were across
10 the whole spectrum of actions to prepare for restart from
11 prolighting to the engineering for modifications to the
12 construction work associated with the modifications and for
13 necessary maintenance work.

14 We were running on the order of 25 or 30 per-
15 cent of straight time dollars for overtime dollars on pay-
16 roll. And, we have reduced that down to about the 3 to 10
17 percent level.

1 Q Well, were these activities that are being
2 reduced, are these activities that were specifically in con-
3 nection with the return of Unit Number 1 to service or some-
4 thing that is even longer in scope?

5 A They are really a mixture of the both. They
6 are a mixture of those things that are specifically identified
7 as necessary to return to service, and those things that
8 are part of having a facility there of the nature of TMI which
9 one has to maintain and take care of.

10 Q I wonder if you could cite some specific
11 examples of work that was reduced which was not work directly
12 connected with restart of TMI-1.

13 A One of the problems identified on a generic
14 basis within the industry was the design of hangars and,
15 in particular, the way in which the hangars were physically
16 attached to their supports.

17 All plants have had to go through and
18 inspect that part of the facility installations, and these
19 have to do with safety systems. And, they had to do reanalyses
20 where that was indicated and upgrade the pipe hangars where
21 the analysis indicated or the inspections indicated it was
22 needed.

23 That was an area that is a good example
24 of one that ^{is} / not required or was not required prior to
25 restart, but obviously is required as part of having the
facility there and which we intend to complete before restart.

1 But, we have reduced the level of
2 effort, we let it stretch out in time and, in particular,
3 reduced the overtime -- in that case, we have eliminated the
4 overtime being applied to it.

5 JUDGE MARSHALL: Mr. Makul, do you
6 wish to have that publication introduced
7 into the record as evidence?

8 MR. MAKUL: Well, no, not really. I
9 only quoted a little bit of it so I don't
10 think it's necessary to introduce the whole
11 thing.

12 JUDGE MARSHALL: All right, fine.

13 Q Now, a letter was sent by Mr. Hafer to Mr.
14 Zarillo on October 20, 1980 and the cover letter says:
15 "Dear Tony: Attached is the summary update report number
16 12 dated October 15, 1980 as to the status of TMI Units
17 Number 1 and Number 2."

18 And, in this letter under Unit Number 1
19 status, it states: "A review is under way to more clearly
20 define those modifications which, in fact, must be completed
21 by restart and those on which reasonable progress is
22 acceptable. The goal is to reduce the number of modifications
23 now classified as mandatory, in order to reduce the scope
24 of work and improve the schedule."

25 Do I take it that at least as of October

1 15th it is not known exactly how many modifications are
2 necessary before restart?

3 A I think the better way to characterize it is
4 that those issues are always subject to additional discussion
5 as more information is developed. And, what we have seen over
6 the last year as we have been working on the plant modifica-
7 tions and had the engineering and technical details of what's
8 required to be accomplished is that time in which it will be
9 required to accomplish them is longer than the NRC had
10 anticipated or we had anticipated when the requirement to
11 complete the item or items was imposed upon us.

12 So that we have been reviewing the
13 current list of commitments for restart to identify those,
14 particularly the long-term ones for which we believe a
15 reasonable case can be made for not requiring them to be,
16 in fact, completed before restart, but only having shown
17 satisfactory progress on them. And, we anticipate talking
18 in the near future with the Nuclear Regulatory Commission's
19 staff and identifying to them where we are on some of the
20 items which we think some change should be made in the status
21 of those items as to where they should be at at the time
22 we startup.

23 Q Is it safe to assume that the more items which
24 must be completed, the longer it will take to complete
25 them, given the resources at Three Mile Island?

1 A Well, if you impose on me the requirement
2 that I fix the resources being applied as a function of
3 time to some selected level and then the work required is
4 increased, then obviously the time to accomplish it is
5 increased.

6 I don't know that we are in that situa-
7 tion at this point.

8 We would like to obtain some relief/^{from}~~some~~
9 of those items just to reduce the scope of the work that we
10 currently have underway.

11 We believe it's frankly in the best
12 interest of everyone to get the scope of work reduced to
13 where it can be more effectively managed and accomplished.

14 I think that the work we do do is done
15 more efficiently in direct proportion and scope of it. And,
16 I don't think it needs to go to the conclusion that the
17 scope stay the same as it is right now as required for
18 restart and that we will not be able to complete it because
19 of a resource limitation or because of the amount of work
20 before that time period necessary to support a restart by
21 the end of 1981.

22 Would you like me to try again on that?

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1 Q Well, I must admit that I am somewhat un-
2 certain as to what you said. I guess to rephrase the ques-
3 tion, in order to complete more items, a direction to com-
4 plete more or less given the financial availability to the
5 CPU Corporation and its affiliates, and given the physical
6 limitations of how many people you can effectively have
7 working in a limited space at one time, and given your
8 engineering and design limitations, you only have so many
9 design people to come up with the specifications as to what
10 must be completed, directionally having more modifications
11 necessary to be completed before start-up, would that re-
12 sult in a longer time schedule to complete the grand total
13 of all the items?

14 A The distinction I'm trying to make is between
15 what I call trends, as you have properly identified how
16 these things inter-relate to each other, from in a sense
17 the defined case that we have for Unit No. 1.

18 I do not believe at this time that we are
19 either so restricted by resources, particularly within
20 Metropolitan Edison, or by the availability of design en-
21 gineers or the amount of people that it requires within the
22 plant to do the work that we would be pre-empted from being
23 able to accomplish the current scope of work defined for
24 restart.

25 I think that that scope is a very ambitious

1 one. I think we can do it more efficiently and I think
2 there are some items for which it's reasonable not to re-
3 quire that they be completed prior to restart. And, those
4 are the positions that we are presenting to the Nuclear
5 Regulatory Commission's Staff to, hopefully, gain their
6 concurrence.

7 But if we don't gain their concurrence or if
8 the Board should decide that a relaxation would not be
9 appropriate, my expectation is that we could still complete
10 the identified, the presently identified scope of work for
11 the restart consistent with the return to service by the
12 end of the year.

13 Q Now, also in this summary it states, "Testi-
14 mony on plant modifications and on separation of Unit 1
15 from Unit 2 was filed before the ASLB on September 15th.
16 Twenty-eight of the contentions, approximately one-third,
17 were addressed."

18 Does that mean that two-thirds of the conten-
19 tions or approximately 56 of them were not addressed in the
20 testimony?

21 A Yes. The ASLB hearings have identified the
22 sequence in which the contentions that are to be considered
23 in the course of the hearings will be taken up. They have
24 identified the schedule for the first three areas of con-
25 tentions and that identifies that we submit our testimony

1 on those first three areas of contentions and how many con-
2 tentions of the total number of contentions that testimony
3 addresses.

4 We will subsequently be filing testimony on
5 the balance of the contentions in accordance with the
6 schedule established by the ASLB.

7 Q Now, quoting from another paragraph, it says,
8 "The five broad areas of ASLB investigation will be: 1,
9 analysis and modifications of plant design. 2, emergency
10 planning. 3, management capability. 4, financial qualifi-
11 cation. 5, independence of Unit No. 1 from Unit No. 2."

12 Now, earlier you stated that -- or it's in
13 here someplace, it says that testimony on plant modifica-
14 tions and on separation of Unit No. 1 from Unit No. 2 was
15 filed before the ASLB on September 15th. Does the Company
16 intend to file testimony on the other three areas, emergency
17 planning, management capability and financial qualification?

18 A Yes. Those would be filed in accordance with
19 the scheduling of the hearings on the contentions that apply
20 to those areas. But I might also add that for the purposes
21 of that report, I tried to kind of group the various areas
22 of the hearings into those five categories rather than give
23 a more detailed list that might -- at least the eight that
24 were in the original August 9th order and a couple of more
25 added, but those seem to me to capture the general nature

1 of the contentions and issues to be heard before the Board.

2 Q Well, either on the basis of the eight that
3 you cited today in your direct testimony or the five that
4 are in this summary, what is the schedule for the Company
5 to file testimony in the areas that you have not filed tes-
6 timony so far?

7 A It has not yet been issued so far by the
8 ASLB.

9 Q There has not been any schedule issued?

10 A That's correct.

1 Q Has there been any direction from the ASLB
2 as to what kind of questions the testimony to be filed
3 should be responsive to?

4 A Yes. The establishment of the contentions
5 to be considered before the Board in effect define the scope
6 of the testimony that has to be prepared. If I am going
7 over something that you already are familiar with, please
8 interrupt me.

9 Q Well, I think it's worthwhile for the record,
10 no matter who may be familiar with it.

11 A The way in which the process works as des-
12 cribed by a layman, such as myself, is that the Nuclear
13 Regulatory Commission identifies those issues which they
14 feel need to be considered before the ASLB and a record
15 developed on those issues so the Commission can make a
16 judgment as to whether or not the unit can operate with
17 adequate assurance of public health and safety.

18 The Board then through pre-hearing conferences
19 has the parties to the hearings, that is, the Applicant
20 or the Licensee in this case, Metropolitan Edison, the
21 Nuclear Regulatory Commission's Staff, and the various
22 interveners, plus the State of Pennsylvania and two or
23 three of their agencies work to identify what are called
24 the contentions which are the specific statements of con-
25 cern which one or more of the parties believes should be

1 appropriately introduced into the hearing process under one
2 of the issues identified by the NRC as issues to be con-
3 sidered.

4 The Board then makes a determination as to
5 which contentions will be accepted and which ones are out-
6 side the scope of the NRC Order and then testimony is pre-
7 pared and presented on those contentions in order to de-
8 velop the record that presumably covers the scope of the
9 concerns indicated by the issues identified by the NRC.

10 So we have the 58 or whatever the number of
11 contentions is that are identified in that report and they
12 all fall within one or more of the eight or so items that
13 the NRC identified as issues to be considered. Then the
14 contentions are grouped in categories and then sequenced by
15 the Board as to how they will hear them, or the sequence in
16 which they will hear them.

17 And, testimony is prepared in advance, sub-
18 mitted to all the parties, such as to expedite the hearing
19 itself on those contentions.

20 Q I have a TMI-2 related question at this point.
21 I recall reading in one of the trade journals that the
22 Bechtel Corporation, who I believe is your prime contractor
23 on your clean-up -- is that correct, first of all?

24 A The contractor for the clean-up of the con-
25 tainment building.

1 Q Yes. I recall reading that they are seeking
2 from Mat-Ed or GPU or the affiliates, either singularly or
3 as a group, some sort of an indemnification against pos-
4 sible negligence suits connected with a possible accidental
5 release of radiation or other types of releases in connec-
6 tion with the clean-up.

7 Could you expand on that? Are you familiar
8 with that at all?

9 A I think I'm familiar with what you're refer-
10 ring to, although I am not familiar with the particular
11 report that you apparently read. But in the course of
12 negotiating the contract with the Bechtel Corporation, they
13 were of course concerned about what their liability would
14 be under the contract as is always the case in such con-
15 tract negotiations. And, their liability for accidental
16 releases, their liability for property damage on the site
17 were two of the issues that had to be addressed in this
18 negotiation as they were, in others.

1 A (Continuing) Without having the contracts
2 available to me to refresh my memory, I think that the rea-
3 sonable way to characterize it is that those issues were
4 settled within that contract consistent with insurance
5 coverage available to the parties and the typical contracting
6 practices in those areas.

7 Q Are there typical contracting practices with
8 respect to cleanups of nuclear accidents?

9 A No, but it is typical contracting practice with
10 regard to liability at nuclear plants.

11 For example, public liability is provided
12 under the Price Anderson Act. And, anyone who works at a
13 nuclear facility obtains their liability coverage under
14 the umbrella of the utility or the operators of the facility
15 who have the coverage under Price Anderson. So that a
16 contractor at the site would not have public liability them-
17 selves, they would not have to provide public liability
18 coverage themselves. They would obtain their public liability
19 coverage through the utility, and that would be incorporated
20 in the terms of the contract.

21 Q I guess to put it in strict layman's terms,
22 if Bechtel has an accident, you look to the utility and
23 Price Anderson, if you're seeking damages?

24 A Yes. And, from a practical standpoint, that's
25 where you want to be able to look.

1 MR. MAKUL: I believe Mr. Nardelli
2 has a question or two.

3 CROSS EXAMINATION

4 BY MR. NARDELLI:

5 Q Mr. Arnold, do you recall testifying back in
6 March of this year before the Board of Public Utilities?

7 A I recall being here and I was trying to
8 remember what the date was. Certainly I expect it was about
9 March.

10 Q Would it be fair to say that TMI-1 is no closer
11 to restart today than it was back in March of 1980?

12 A If one can make a distinction between, perhaps,
13 what the truth is, independent of our understanding of it,
14 I think it is correct to say that our understanding of the
15 situation is essentially equivalent as far as how close we
16 are to restart.

17 Q About a year?

18 A Yes.

19 Q In each case?

20 A Yes.

21 Q Now, there was some reference made earlier by
22 one of the public witnesses to the cleanup costs, the uninsured
23 cleanup costs.

24 It is my understanding that the rates
25 being charged to Jersey Central customers do not reflect any

1 of these costs. Are you in a position to be able to confirm
2 or deny that?

3 A Mr. Nardelli, I'm not an accounting witness.
4 I don't have the expertise in that area, and I really think
5 it would be preferable to have another witness address that.

6 MR. NARDELLI: I have no further ques-
7 tions at this time, Judge Marshall.

8 JUDGE MARSHALL: Does the Staff have
9 any questions of this witness?

10 MS. BELLO: No questions.

11 JUDGE MARSHALL: Mr. Sahradnik?

12 MR. SAHRADNIK: I have just a few
13 questions.

14 CROSS EXAMINATION

15 BY MR. SAHRADNIK:

16 Q Mr. Arnold, what is the Company's best estimate
17 to date for the start-up of the TH1-2 plant?

18 A We have not really tried to make a best estimate
19 of that, in terms of making a forecast for what we think
20 will happen. I think the most that we can say is that as
21 part of the schedule and cost effort that we undertook from
22 about December of 1979 through July of 1980, we developed
23 the sequence and what we thought in that earlier time period
24 of six or eight months ago to be a realistic schedule for
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1 the accomplishment of that sequence of events to complete
2 the cleanup and then to restore the unit to its original
3 design configuration.

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1 A (Continuing.) We concentrated very much in
2 that effort on the clean-up aspects of it, much more so
3 than developing the sequence of events or looking at the
4 time requirements in particular for the sequence of events
5 associated with the rebuilding of the unit in preparation
6 for its return to operations.

7 Q If I might cut in, you had a mentioned a
8 2-1/2 to 3-year period before. Was that estimate for the
9 completion of the clean-up?

10 A Yes, through removal of the fuel and a major
11 portion of the decontamination of the reactor building.

12 Q In respect to the completion of the clean-up,
13 then, we are talking about 1983-84?

14 A Yes.

15 Q Which one?

16 A The schedule that we had developed, based on
17 that effort in the latter part of 1979, and the first half
18 of 1980, would have the core removed, mid-1983, and approxi-
19 mately another year-and-a-half, or to the end of 1984 to
20 rebuild the unit to its original design configuration.

21 I think that we lost at least a year at this
22 time in pursuing these clean-up activities relative to the
23 schedule that we were developing earlier this year.

24 Q So your best estimate, then, would be some-
25 where near the end of 1984?

1 A For completion of clean-up?

2 Q For completion of clean-up.

3 A I think that from where we are today, that's
4 probably the most optimistic time that we could expect.

5 Q Am I correct in stating that beyond the clean-
6 up, the questions concerning rebuilding as well as re-
7 licensing would come into effect?

8 A Yes; they would be beyond the clean-up. We
9 will not really know sufficient technical information to
10 make a judgment about the appropriateness of restart until
11 we are well into the clean-up and in particular have access
12 to the inside of the reactor vessel.

13 Q So, then, can I interpret your answer as
14 stating that there has not been a decision by the Company
15 as to whether or not TMI-2 will actually be restarted?
16 You cannot evaluate whether to restart or perhaps scrap or
17 take some alternative measure until the completion of the
18 clean-up; is that correct?

19 A I think that's true but I would like to be
20 a little bit careful of how absolute that's understood.
21 It seems to us that the primary issue right now and the
22 primary concern, the primary focus of our efforts and re-
23 sources, has to be on the accomplishment of clean-up. And,
24 it's just too premature to address the question of restart
25 at this time.

Arnold-cross

1 A (Continuing) However, we have looked at --
2 we have looked at, for instance, is there any information
3 available which would indicate to us that restart would be
4 precluded. Do we know right now anything that would say
5 restart is not an option. And, the answer to that has been,
6 no.

7 We know at this time of no technical
8 basis for not being able to restart Unit Number 2 eventually.

9 Q With respect to cleanup, it's my understanding
10 at the present time that the cleanup costs are being funded
11 through your insurance recovery, is that correct? Can you
12 answer that?

13 A Again, I'm not an accounting witness and I
14 think that one has to first understand that Unit Number 2
15 has a cost associated with it beyond just those activities
16 that are addressing cleanup. Even without accomplishing any
17 cleanup, there is costs associated with the facility's
18 existence and the fact that we have to take care of the
19 facility.

20 There are also costs associated with
21 the investment that's there and those kinds of considerations.

22 So that when one looks at the efforts
23 that are being applied to make a net gain in the decontamination
24 of the facility, that's what's eventually term cleanup.
25 And by and large, up until this point, the insurance coverage

1 has covered those cleanup costs.

2 Q There is going to come a time when the cost
3 of cleanup will exceed the cost of the insurance recovery,
4 correct?

5 A No question that the cleanup total effort
6 associated with returning the unit to a decontaminated con-
7 dition will considerably exceed the insurance coverage.

8 Q And the completion of the cleanup phase of
9 TMI-2 is going to then depend upon the Company to find some
10 external source of financing the cleanup costs other than
11 insurance proceeds, correct?

12 A Well, I think I can only testify to the kind
13 of -- the obvious conclusion in a non-financial expert way.

14 If one wants to really pursue the
15 financing from that technical standpoint, I'm not the one
16 to address that. But quite clearly, other resources are
17 going to have to be made available beyond insurance proceeds
18 to accomplish the cleanup.

19 MR. SAHRADNIK: Your Honor, it is
20 3:30, and I know Mr. Arnold is pressed for
21 time.

22 I do have some other questions, but I
23 think that can be addressed to a different
24 witness. They would be in the realm of
25 accounting.

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JUDGE MARSHALL: Mr. Kirsten, do you have any questions for this witness on redirect?

MR. KIRSTEN: No, sir.

JUDGE MARSHALL: The Public Advocate?

MR. NARDELLI: No, Judge Marshall.

JUDGE MARSHALL: Does Staff?

MS. BELLO: No questions.

JUDGE MARSHALL: Thank you very much, Mr. Arnold.

Are there any other matters to be covered today?

Do you wish to go off the record?

MR. NARDELLI: Yes, let's go off the record.

(Whereupon, there was an off the record discussion.)

JUDGE MARSHALL: Back on the record. This will conclude today's hearing. We will meet back here on Wednesday, 9:00 o'clock in the morning. Thank you for attending.

(ADJOURNED TO WEDNESDAY, NOVEMBER 5, 1980, 9:00 A.M., NEWARK, NEW JERSEY.)

E X H I B I T S

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I N D E X

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ROBERT C. ARNOLD

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By Mr. Makul		3177	
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DIANE L. PINEY		3139	
By Mr. Nardelli		3170	

CHARLES P. BLANCHARD

By Mr. Nardelli	3137		
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