



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555

March 2, 1981


OFFICE OF THE  
SECRETARY

COMMISSION DETERMINATION REGARDING PUBLIC DISCLOSURE  
UNDER THE GOVERNMENT IN THE SUNSHINE ACT OF:

Transcript of Discussion of General Public Utilities  
Federal Tort Claim, Wednesday, January 28, 1981

Pursuant to 10 CFR 9.108(c) and 10 CFR 9.104(a)(10), the Commission has determined that the attached portions of the subject transcript should be released to the public. The remaining portions of the transcript are being withheld from public disclosure pursuant to 10 CFR 9.104 as noted below:

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3/8		3/21	10 CFR 9.104(a)(10)
6/18		6/25	10 CFR 9.104(a)(10)
7/1		7/25	10 CFR 9.104(a)(10)
8/1		8/25	10 CFR 9.104(a)(10)
9/1		9/25	10 CFR 9.104(a)(10)
10/1		10/25	10 CFR 9.104(a)(10)
11/1		11/25	10 CFR 9.104(a)(10)
12/1		12/25	10 CFR 9.104(a)(10)
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17/1		17/25	10 CFR 9.104(a)(10)
18/1		18/25	10 CFR 9.104(a)(10)
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Samuel J. Chilk  
Secretary of the Commission



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THIS DOCUMENT CONTAINS  
POOR QUALITY PAGES

NUCLEAR REGULATORY COMMISSION

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In the Matter of:

DISCUSSION OF GENERAL PUBLIC UTILITIES

FEDERAL TORT CLAIM

CLOSED MEETING

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DATE: January 28, 1981 PAGES: 1 thru 19

AT: Washington, D. C.

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1 UNITED STATES OF AMERICA  
2 NUCLEAR REGULATORY COMMISSION

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5 DISCUSSION OF GENERAL PUBLIC UTILITIES  
6 FEDERAL TORT CLAIM  
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9 CLOSED MEETING  
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11 Nuclear Regulatory Commission

12 Room 1130

13 1717 E Street, N. W.

Washington, D. C.

14 Wednesday, January 28, 1981

15 The Commission met in closed session, pursuant to  
16 notice, at 10:05 a.m.

17 BEFORE:

18 JOHN F. AHEARNE, Chairman of the Commission  
19 VICTOR GILINSKY, Commissioner  
PETER A. BRADFORD, Commissioner

20 STAFF PRESENT:

21 S. CHILK, SECY  
22 L. BICKWIT, OGC  
23 H. SHAPAP, ELD  
J. MAYNARD, ELD  
S. EILPEPIN, OGC  
24 C. W. REAMER, OGC  
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POOR ORIGINAL

P R O C E E D I N G S

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2 CHAIRMAN AHEARNE: We are going to have a  
3 discussion this morning I think of the General Public  
4 Utilities Federal Tort Claim and I would like a vote to  
5 close under Exemption 10, Civil Action Proceeding.

6 Any discussion of that motion?

7 (No response.)

8 CHAIRMAN AHEARNE: All in favor say "Aye."

9 (Chorus of Ayes.)

10 MR. BICKWIT: I guess before we go any further you  
11 have got an issue on whether you want minutes or a  
12 transcript here. I am indifferent.

13 COMMISSIONER BRADFORD: Well, to the extent this  
14 is in any way pertinent to Joe's making up his mind on the  
15 subject I would suggest that a transcript might be helpful.

16 CHAIRMAN AHEARNE: That is right, a transcript  
17 would be good.

18 Do you have a preference?

19 MR. BICKWIT: I would a recommend a transcript.

20 CHAIRMAN AHEARNE: All right.

21 MR. BICKWIT: The way we are going to divide this  
22 up is that our office will go first because Bill did the  
23 basic drafting of this memo and we will attempt to deal very  
24 briefly with the various suggestions that have been made.

25 CHAIRMAN AHEARNE: Will you answer my questions,

1 too?

2 MR. BICKWIT: Yes, and we will try to answer your  
3 questions also. If Howard and Jay want to add something  
4 then they will do it right after we are finished.

5 First, with respect to Joe's point, I think I can  
6 say that our office feels very strongly that the current  
7 procedures are not designed for a case of this magnitude.

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22 COMMISSIONER GILINSKY: And we can't afford the  
23 risk of having Howard grab the claim.

24 (Laughter.)

25 MR. SHAPAR: I will speak to that right now.

1 MR. BICKWIT: Joe said that you were tempted to go  
2 that way. That was the basis for your recommendation.

3 (Laughter.)

4 MR. BICKWIT: Then further along those lines I  
5 think the Commission is going to be thinking about just what  
6 is going to happen with respect to Met. Ed.'s legislative  
7 efforts involving bail-out. I think it is going to want to  
8 square whatever it does here with whatever position it takes  
9 or fails to take on that issue and again the Commission  
10 speaking directly will better facilitate that kind of  
11 reconciliation.

12 COMMISSIONER GILINSKY: You are now saying the  
13 Commission is going to deal with it?

14 MR. BICKWIT: I think it is absolutely essential  
15 the Commission deal with it. I think it should not be CGC  
16 and it should not be ELD. I guess my feeling is that if the  
17 Commission is suited to deal directly with anything ---

18 CHAIRMAN AHEARNE: Oh, now, wait a minute, Len,  
19 you are raising thresholds.

20 (Laughter.)

21 MR. BICKWIT: It follows that this is the issue.

22 MR. SHAPAR: I would add something to that. I  
23 agree with what Len says, but really the procedure you pick  
24 isn't going to make all that much difference.

25 CHAIRMAN AHEARNE: Absolutely.

1 MR. SHAPAR: For the reason that if I do it, I am  
2 not about to make a decision without coming to you.

3 CHAIRMAN AHEARNE: Of course.

4 MR. SHAPAR: If Len were to do it, I am sure that  
5 the same result would obtain. If we do it jointly, we are  
6 not about to make a move without coming to you first.

7 CHAIRMAN AHEARNE: Of course.

8 MR. SHAPAR: So all we are talking about now is  
9 who you are appointing as the designate to write a paper  
10 that is going to come back to you anyway.

11 CHAIRMAN AHEARNE: Right.

12 MR. BICKWIT: My response to that is that I think  
13 the Commission should speak to it. I don't think it is  
14 sufficient for the Commission to guide you or to guide me.  
15 I think the Commission must express itself in writing.

16 CHAIRMAN AHEARNE: I think the only issue is, and  
17 I think we all agree on where that will come out, is when  
18 the paper is signed it is signed in behalf of whom.

19 Realistically, as Howard was pointing out, it is a  
20 matter of who signs it. The position would be taken only  
21 after we agree to it.

22 MR. BICKWIT: I understand that.

23 CHAIRMAN AHEARNE: It would be a directed  
24 position. So the only issue then is given that it is going  
25 to be a directed position what is the formal process to get



1 to that directed position.

2 MR. BICKWIT: All right. Let me just make one  
3 further point. There are many basic position which the  
4 members of this Commission don't agree on.

5 (Laughter.)

6 MR. BICKWIT: It is much easier if it is elevated  
7 to the Commission level for its sense to be written up.

8 CHAIRMAN AHEARNE: That is true.

9 COMMISSIONER GILINSKY: Well, there is also a  
10 difference between an officer of the Commission dealing with  
11 this case on the basis of guidance that he got. Signing is  
12 a decision made in his office.

13 CHAIRMAN AHEARNE: Sure. I just want to make it  
14 clear that I come out on the side of the Commission ought to  
15 do it. I just want to make it clear that it wasn't because  
16 in any of the other ways the Commission wouldn't be doing  
17 it. In any big issue the Commission has a part in it.

18 MR. SHAPAR:

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CHAIRMAN AHEARNE:

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MR. BICKWIT:

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CHAIRMAN AHEARNE:

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MR. BICKWIT: Yes. Now, you made one other

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suggestion which was to involve CPE.

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CHAIRMAN AHEARNE:

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1 COMMISSIONER GILINSKY: Put the whole thing under  
2 an executive director so there is one person who is  
3 coordinating all these various efforts.

4 CHAIRMAN AHEARNE: I guess I would prefer to have  
5 Len do it.

6 MR. BICKWIT:

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8 MR. SHAPAR:

9 MR. BICKWIT:

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21 CHAIRMAN AHEARNE:

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CHAIRMAN AHEARNE:

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MR. BICKWIT:

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CHAIRMAN AHEARNE: All right.

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MR. BICKWIT: Those consideration aside, I think

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it would be an advantage to involve OFF.

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CHAIRMAN AHEARNE:

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MR. BICKWIT: This consideration aside, I would

1 say it ought to be a three-pronged effort and that would be  
2 my view.

3 CHAIRMAN AHEARNE: Under you, all right?

4 MR. BICKWIT: Well, all right.

5 CHAIRMAN AHEARNE: There has to be one person in  
6 charge.

7 MR. BICKWIT: I don't see why there has to be.

8 (Laughter.)

9 CHAIRMAN AHEARNE: It works better that way.

10 MR. BICKWIT: It is an issue we have discussed.

11 CHAIRMAN AHEARNE: Yes.

12 COMMISSIONER BRADFORD:

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19 MR. SHAPAR:

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7 COMMISSIONER GILINSKY: I think we had better stop  
8 there.

9 (Laughter.)

10 CHAIRMAN AHEARNE: Is there agreement though to go  
11 ahead?

12 MR. BICKWIT: Yes.

13 CHAIRMAN AHEARNE: Fine. All right.  
14 Any rebuttals?

15 MR. SHAPAR: No. As far as OPE is concerned  
16 whoever you want to handle it on it they would obviously see  
17 the thing, too, and work on it.

18 CHAIRMAN AHEARNE: Yes.

19 (Whereupon, at 10:30 a.m., the closed meeting  
20 concluded.)

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NUCLEAR REGULATORY COMMISSION

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

in the matter of: DISCUSSION OF GENERAL PUBLIC UTILITIES  
FEDERAL TORT CLAIM

Date of Proceeding: January 28, 1981

Docket Number: \_\_\_\_\_

Place of Proceeding: Washington, D. C.

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

Mary C. Simons

Official Reporter (Typed)



Official Reporter (Signature)