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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the matter of:

COMMONWEALTH EDISON COMPANY

[Braidwood Station, Units 1
and 2]

Docket No. 50-456
50-457

TELEPHONE CONFERENCE CALL

Location: Bethesda, Maryland
Date: Monday, September 30, 1985

Pages: 1 - 33

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1 UNITED STATES OF AMERICA
 2 NUCLEAR REGULATORY COMMISSION
 3 Before the Atomic Safety and Licensing Board

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5 In the matter of: :
 6 COMMONWEALTH EDISON COMPANY : Docket No. 50-456
 7 [Braidwood Station, Units 1 : 50-457
 8 and 2] :

9 - - - - - x

10

11 Monday, September 30, 1985
 12 4350 East-West Highway
 13 East-West Towers
 14 Bethesda, Maryland

15

16 A telephone conference call was held in the
 17 above-captioned proceeding, beginning at 2:15 p.m., pursuant
 18 to notice.

19 BEFORE:

20 Herbert Grossman, Jr., Esq.,

21 Chairman of the Board.

22 A. Dixon Callihan,

23 Member of the Board.

24 Richard F. Cole,

25 Member of the Board.

1 APPEARANCES:

2

3 For the Applicant:

4 JOSEPH GALLO, ESQ.

5 VICTOR COPELAND, ESQ.

6 Isham, Lincoln & Beale

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8 Washington, D.C. 20036

9

10 For the NRC Staff:

11 STUART TREBY, ESQ.

12 ELAINE CHAN, ESQ.

13 Office of the Executive Legal Director

14 U.S. Nuclear Regulatory Commission

15 Washington, D.C. 20555

16

17 For Pro Se Intervenor:

18 BRIDGET LITTLE ROREM

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20 Essex, Illinois 60935

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1 PROCEEDINGS

2 [2:15 p.m.]

3 JUDGE GROSSMAN: We have before us Mr. Gallo's
4 motion to establish a -- did I hear from Mrs. Rorem? Is she
5 here?

6 MS. ROREM: Yes.

7 JUDGE GROSSMAN: We have before us a motion to
8 establish a hearing schedule and for other relief which is the
9 subject of this conference call.

10 Mr. Gallo also is having this call reported, but we
11 haven't made that an official transcript, unless the parties
12 move to have it done at the end. It will just be Mr. Gallo's
13 copy of that.

14 Now, Mr. Gallo, do you have anything further to say
15 with regard to your motion?

16 MR. GALLO: Yes. As a preliminary matter, Victor,
17 is the reporter there?

18 MR. COPELAND: Yes, the court reporter is here.

19 MR. GALLO: Judge Grossman and members of the Board,
20 with respect to the motion, which really consists of two
21 parts, one deals with the hearing schedule, and the request is
22 to set October 21 and 22 as hearing dates, I believe the
23 motion adequately explains the basis for those dates, and I
24 will not burden this call with further argument on that.

25 The other element of relief that is requested in the

1 motion is a request for early distribution of the emergency
2 planning booklet that has been filed with Mr. Butterfield's
3 testimony, and as the motion indicates, Applicant desires very
4 much to distribute the Braidwood Emergency Planning Booklet by
5 October 16, so that it will be in the hands of individuals
6 residing within the ten-mile emergency plume pathway EPZ in
7 time for FEMA to evaluate the dissemination and the other
8 aspects associated with the booklet during the upcoming
9 exercise on November 6th.

10 Now the only additional thing I would add as to the
11 form of the motion is that in addition to the booklet itself
12 and the testimony of Mr. Butterfield, the Board has the
13 position of FEMA as stated in Counsel's letter of September
14 12, and the Counsel I am referring to is Mr. Flynn, Counsel
15 for FEMA, and on September 12, 1985, Mr. Flynn filed with the
16 Licensing Board and the parties a Statement of Position
17 regarding Ms. Rorem's Contention 1(a), and in there it is
18 stated that FEMA believes that the booklet I refer to meets
19 the guidance of NUREG-0654 and effectively addresses the items
20 contained in Criterion Roman Numeral II.G.1, and I would
21 submit that this Position Statement by FEMA provides an
22 adequate basis for the Board to grant the relief requested for
23 early distribution of the pamphlet.

24 I would also add and emphasize that we, of course,
25 are prepared and willing to modify the pamphlet as

1 appropriate, should it be required ultimately by the Board's
2 decision on this issue.

3 JUDGE GROSSMAN: Okay, Mr. Gallo. I take it, then,
4 it is not the company's position that they would be issuing
5 another brochure in the future, but that this would constitute
6 the brochure and the distribution, if the Board does not make
7 any modifications as a result of this hearing; is that
8 correct?

9 MR. GALLO: That's correct, Judge Grossman. This
10 would be the booklet and the distribution until next year when
11 another distribution of the booklet is required by the
12 Commission's regulations and guidance. It is done annually.

13 JUDGE GROSSMAN: Okay. If it's done annually, isn't
14 there some question whether you are even going to be on-line
15 before the next distribution comes up?

16 In other words, are we now pretty much assured that
17 there is going to be a second distribution before the company
18 is due to go on-line, or isn't that the case?

19 MR. GALLO: I'm not able to answer your question,
20 Judge Grossman, because it turns on whatever the fuel load
21 date and startup might be. The current fuel load date for the
22 plant is April of '86; however, affidavits filed on behalf of
23 the company before the Commission make it clear that the
24 actual fuel load date will occur sometime after that, but I am
25 not in a position at this point to hazard a guess as to what

1 that new date will be.

2 Mr. Wallace, in his affidavit filed with the
3 Commission, indicated that the company is in the throes of an
4 exercise to determine a new fuel load date. It may be that
5 the next distribution might still come at a time when the
6 plant is not ready to operate.

7 On the other hand, it may not. I just can't say
8 more than that.

9 In any event, the company is prepared to distribute
10 whatever is necessary under the circumstances.

11 JUDGE GROSSMAN: Okay. I see, fine. It seems clear
12 to me now.

13 Mrs. Rorem, would you like to respond to both
14 matters raised by Mr. Gallo in whichever order you care to,
15 one being the hearing date, and the second being the early
16 distribution of that brochure?

17 MS. ROREM: Okay. I was not firm whether you
18 intended to distribute the brochure to all residents of the
19 EPZ.

20 JUDGE GROSSMAN: Mr. Gallo?

21 MR. GALLO: The brochure, the booklet would be
22 distributed to all residents in the ten-mile EPZ, as well as
23 delivered to all facilities catering to transients who might
24 be passing through that ten-mile EPZ. It would be the normal
25 distribution that is normally required by the regulations.

1 MS. ROREM: Okay. Could you tell me this? Is there
2 a reason why it's necessary to distribute it to all parties
3 within the EPZ when the drill which will take place in early
4 November will only involve a certain portion of that EPZ?

5 I mean, why would you need to distribute it to
6 everyone now?

7 MR. GALLO: Well, I'm not aware, Judge Grossman,
8 that the drill is only going to involve a portion of the
9 Emergency Planning Zone, so I really can't respond to
10 Ms. Rorem's question, other than to judge that a partial
11 distribution would be particularly difficult, because the
12 mailing list is compiled on the basis of residents in the
13 Emergency Planning Zone, and sub-mailing lists are not kept of
14 individuals residing in various quadrants of the Emergency
15 Planning Zone.

16 JUDGE GROSSMAN: Mrs. Rorem, could you tell me what
17 information you have which indicates that the exercise would
18 cover less than the ten-mile EPZ?

19 MS. ROREM: Well, I guess it's rather an assumption,
20 because exercises always have encompassed only parts of an
21 EPZ. I don't know. Maybe they intend to do something with
22 all of us, but they never have before.

23 JUDGE GROSSMAN: I see. Okay.

24 But in any event, unless we have to check on that
25 for some reason, it seems clear that Mr. Gallo is offering, on

1 behalf of the company, to redistribute if the Board determines
2 that the brochure in this state is not totally satisfactory,
3 and perhaps you could adequately respond to his request on
4 that basis.

5 [Pause.]

6 Yes, Mrs. Rorem, you can speak.

7 MS. ROREM: I got the impression that he meant that
8 this was the distribution for the year, and that any changes
9 or modifications would be encompassed in the next year's
10 distribution.

11 JUDGE GROSSMAN: That's not my understanding. And
12 Mr. Gallo, I guess, will clarify it. But my understanding is
13 that the company is undertaking to distribute again for this
14 year a brochure in whatever form the Board ultimately decides
15 is necessary.

16 MS. ROREM: Okay.

17 JUDGE GROSSMAN: Of course subject to review by the
18 Appeal Board and the Commission.

19 Isn't that correct, Mr. Gallo?

20 MR. GALLO: That's correct, Judge Grossman, with one
21 footnote.

22 If the Board, for example, decided that on page 6
23 two or three words should be changed for some good cause, I
24 don't want to rule out the opportunity to petition the Board
25 to determine its acceptance or approval, of perhaps providing

1 that change until the next year.

2 JUDGE GROSSMAN: I understand that. And my
3 experience with regard to fuel loading dates suggests to me
4 that this whole exercise is academic with regard to which
5 year's brochure. I would think that we would have very little
6 time between the -- at best, between when the new brochure
7 would be issued for next year and the fuel loading date.

8 But be that as it may, I think Mrs. Rorem
9 understands what your position is on the booklet.

10 Mrs. Rorem?

11 MS. ROREM: Yes. That's fine. You know, I have no
12 objection to the early distribution of the booklet.

13 JUDGE GROSSMAN: You have no objection to the early
14 distribution. Okay, that's resolved, then.

15 JUDGE CALLIHAN: Callihan, here. Just one question.

16 Does Mrs. Rorem have any objection to distribution
17 to the entire population in the EPZ?

18 MS. ROREM: Well, not if they -- let me put it this
19 way. It does not make me happy. Because I feel that the
20 booklet is very erroneous in part, I would prefer that the
21 first thing that people read about it not be the erroneous
22 information.

23 I have a feeling that booklets that are distributed
24 subsequent to the first one are not nearly so well read or
25 understood or kept in memory.

1 So I am not completely happy with that. However,
2 Mr. Gallo did explain that he felt it would be difficult to
3 distribute to a portion of the EPZ, and I guess I -- you know,
4 I'm not happy about that, but, you know --

5 JUDGE GROSSMAN: But you can live with that.

6 MS. ROREM: I can live with that.

7 JUDGE GROSSMAN: Okay. You're not asking the Board,
8 then, to deny that, right?

9 MS. ROREM: No.

10 JUDGE GROSSMAN: Okay. That's fine. Let's go on,
11 then, to the hearing schedule matter.

12 By the way, did the Staff have anything to say on
13 that? It seems as though it's open and shut.

14 MS. CHAN: The Staff did not have any objection. We
15 discussed it with the Applicant, prior to the filing of their
16 motion.

17 JUDGE GROSSMAN: Okay. That's fine. So why don't
18 we go on to the hearing schedule part. And, Mrs. Rorem, you
19 can -- oh, one thing though before we start.

20 I had indicated through my secretary that we were
21 considering setting the hearing up in Chicago, but I
22 understand that Mrs. Rorem would prefer to have it nearer the
23 site, and prehearing conferences have been held in Joliet, and
24 so that we think that we would, unless the facilities are not
25 available, that we would try to have the hearing scheduled for

1 the Will County Courthouse building in Joliet.

2 Now with that in mind, Mrs. Rorem, could you tell us
3 what your position is with regard to those suggested dates?

4 MS. ROREM: Okay. I, you know, when the prehearing
5 conference took place, I felt as though the earlier, the 7th
6 or 8th of October were pretty much definitive times, and I
7 was thrown for a loop when it was changed to potentially the
8 end of October or beginning of November.

9 However, having accepted that, it was a little bit
10 of a surprise to get the motion from Joe Gallo suggesting or
11 moving that the hearing dates be established on the 21st and
12 22nd of October. That is personally a difficult date for me.
13 It does not make it any easier to accommodate my expert
14 witness.

15 I didn't -- I thought that the explanation or bases
16 for establishing that as the date were somewhat questionable,
17 because I don't think that -- I don't think that a decision
18 will necessarily be made on the issue before November 6th,
19 and it's going to be -- and if the people from Edison are tied
20 up with planning and so forth for that, I would prefer to go
21 to the 11th of November as a hearing date.

22 JUDGE GROSSMAN: Okay.

23 Mr. Gallo, if I understand her, you have no
24 objection to that. You would prefer to have it earlier, but
25 you could live with a later date; is that correct?

1 MR. GALLO: Generally that's correct. I might ask
2 of the Board or maybe the Staff, I don't have the proposed
3 schedule for all the activities, including the QA activities,
4 in front of me.

5 Does November 11 run into any activities that are on
6 the schedule that is pending before the Board for approval?
7 Perhaps you have it there, Elaine?

8 MS. CHAN: I have the schedule here. I don't see
9 anything on that particular day. There is a November 18th
10 deadline that is the closest.

11 MR. GALLO: What is November 18th?

12 MS. CHAN: Deposition of all witnesses completed,
13 except for the 82-05 issue.

14 JUDGE GROSSMAN: Well, Mr. Gallo, let me first say
15 that we are not thinking of setting it on November 11th, but
16 for that week, and I would think that we would set it for
17 November 13th, if we went that week, the 11th being a legal
18 holiday here, and allowing us a day to travel would bring us
19 to Wednesday, the 13th, and that's probably how we would
20 schedule it.

21 Now that would bring us to the end -- the 18th, as I
22 see it -- the 18th is a Monday, so that you would not be able
23 to take depositions during those few days that we have the
24 hearing. So you would have to take that into account.

25 And the next thing we have is November 19th, the

1 written Staff position, but that shouldn't be any handicap for
2 setting it on the 13th.

3 Mr. Gallo?

4 MR. GALLO: I guess if the 21st and 22nd of October
5 are bad days for Ms. Rorem, I have talked to my witness, and
6 he thought that we might go forward on the 28th and 29th
7 without interfering with the exercise preparation on his
8 part. Is that a possible alternative?

9 JUDGE CALLIHAN: That's preferable to me over the
10 11th and 12th of November.

11 JUDGE GROSSMAN: That's the 28th and 29th of October
12 on a Monday and Tuesday. I would prefer the 29th and 30th.

13 But now let's hear from Mrs. Rorem and find out if
14 that's agreeable. That was the first of the two weeks that I
15 had suggested.

16 MS. ROREM: Yes. I think I indicated to your
17 secretary that I preferred the --

18 JUDGE GROSSMAN: The latter week.

19 MS. ROREM: The latter week. I don't have a
20 desperate reason for not liking that date, aside from personal
21 ones. They're nothing like the kind of reasons that you
22 people have, except that it's around Halloween, and I have
23 children. But that's fine.

24 JUDGE GROSSMAN: Halloween causes a problem for me,
25 too, but I think I can overlook that.

1 Mr. Gallo, can you accommodate the Tuesday and
2 Wednesday of that week, rather than Monday and Tuesday?

3 MR. GALLO: Yes.

4 JUDGE GROSSMAN: Okay, fine. I don't think the
5 hearing is going to go more than one day, really, and we'll
6 try and wrap it up in one day. But Mrs. Rorem probably has a
7 better idea than I do of that.

8 Now is everybody agreed on that, then?

9 The Staff?

10 JUDGE CALLIHAN: In his filing, Mr. Gallo made some
11 mention of the possibility of some preliminaries, and I quote
12 from page 2 of his filing dated September 26th, where it says,
13 "Applicant believes that certain motions to strike should be
14 moved, heard, and decided on October 21." I just cite that
15 for reference.

16 Is it prudent to consider doing those preliminaries
17 on, say, the afternoon of the 28th, so as to fit within your
18 frame of a day or two for the schedule, and still not run
19 further into the week of the 29th?

20 JUDGE GROSSMAN: Oh, no. We'll be doing this right
21 before the hearing starts on the morning of the 28th, unless
22 we were to decide to do it the week before.

23 Isn't that correct, Mr. Gallo?

24 MR. GALLO: Yes. I guess Judge Callihan is
25 suggesting maybe we can convene half a day early to deal with

1 any motions.

2 JUDGE CALLIHAN: That's right. That's all I said.

3 JUDGE GROSSMAN: Oh, I'm sorry. That's the
4 afternoon of the 28th. I'm sorry. I was thinking in terms of
5 the 29th.

6 Well, I don't see -- let me just discuss this with
7 Judge Cole.

8 [Discussion off the record.]

9 JUDGE GROSSMAN: Okay. Well, we don't have any
10 problem with convening on the afternoon of the 28th in order
11 to decide this. But I'm not sure that we would have to do
12 that, because we have that extra time in which motions to
13 strike can be decided before we get out there.

14 Let me also say another thing. I'm not as big on
15 cross-examination plans as Judge Brenner was, and I don't
16 really think that on this particular issue that
17 cross-examination plans would be necessary. My feeling is
18 that, to a large extent, they are an imposition on Counsel and
19 pro se people, and where I can, even though it lessens the
20 burden on the Board, I can appreciate how much of a problem it
21 causes the participants.

22 So I would just as soon do away with that
23 requirement. And so all that we would have is that motions to
24 strike, which I assume the parties can submit the week before,
25 and we can have it decided the week before.

1 Would you like to address that first, Mr. Gallo, and
2 then the other parties?

3 MR. GALLO: Yes, Judge Grossman. Is October 11 now
4 the file date for testimony? I've lost track, since we've
5 filed ours.

6 JUDGE GROSSMAN: I believe October 11th is the date
7 that we suggested, yes.

8 Is that your recollection, Mr. Treby and Ms. Chan?

9 MS. CHAN: Yes, Your Honor, October 11th is the
10 date.

11 JUDGE GROSSMAN: Okay.

12 MR. GALLO: Assuming, Judge Grossman, that we
13 received the testimony by the 14th or 15th, we would be in a
14 position to file any motions to strike within a very short
15 number of days thereafter. We could get it into the hands of
16 the parties by the 18th, and the Board, too.

17 JUDGE GROSSMAN: Okay. And then the Board could
18 decide that the next week. So I really don't think that it
19 would be necessary to convene early on the afternoon of the
20 28th in order to decide that.

21 Could I hear from Mrs. Rorem as to whether she would
22 have any difficulty making that October 11th date, other than
23 the ordinary difficulty in submitting prepared testimony?

24 MS. ROREM: No. My only difficulty is -- well, as I
25 said, I am not sure about the availability of my expert

1 witness. In fact, I'm going through some begging and
2 pleading.

3 If he is not available then, which he has led me to
4 believe he is not, at the end of October and beginning of
5 November, I would have to either find another expert witness,
6 or I would not be filing testimony.

7 JUDGE GROSSMAN: I see. Okay.

8 So why don't we, then, leave the date of October
9 11th as the date, and if your witness falls by the wayside,
10 you can make the appropriate motion on whether we could allow
11 you more time or whatever. I don't want to suggest anything.
12 But it seems to me as though the date of October 11th is just
13 as good as any other date at this juncture.

14 Is that correct, Mrs. Rorem?

15 MS. ROREM: Yes.

16 JUDGE GROSSMAN: Okay, fine. So why don't we do
17 that, and why don't we ask that Mr. Gallo -- well, I haven't
18 heard from Staff yet, but I would assume that you would not
19 need more time than the 18th or perhaps the 21st in order for
20 your motion -- to submit motions to strike.

21 Could you speak to that, Ms. Chan?

22 MS. CHAN: Your Honor, if we have Mrs. Rorem's
23 testimony in hand by the 15th of October, we would be able to
24 file motions to strike, as the Applicant could, on the 18th.

25 JUDGE GROSSMAN: Okay. Well, if you don't have it

1 in hand by then, but a day or two later, then I think the
2 Board, without issuing an order, will accept the motions to
3 strike on the 21st. But if you do have it in hand by the
4 15th, we would expect the motions to strike to be in by the
5 18th.

6 So why don't we set that as a time? Is that
7 acceptable to all the parties?

8 MS. ROREM: Yes.

9 MS. CHAN: Yes.

10 MR. GALLO: Yes, for the Applicant.

11 JUDGE GROSSMAN: Okay. Now we have one more matter
12 that is not in this particular motion, but we did have a
13 proposed stipulation which was never fully executed. I
14 believe it represents the parties' understanding of the scope
15 of this revised Contention 1(a).

16 MS. ROREM: Yes, it does, and I have it in my hand
17 right now.

18 JUDGE GROSSMAN: Okay. And so, Mrs. Rorem, you are
19 going to agree to that now; is that correct?

20 MS. ROREM: Let me explain something.

21 JUDGE GROSSMAN: Okay.

22 MS. ROREM: When I was -- first of all, I didn't
23 receive it, because it was sent -- well, it was sent Federal
24 Express and delivered to my neighbor, so I didn't get until a
25 week ago or so. I have received a copy of it, but I hadn't

1 read the copy, because I knew it was a copy. And then I got
2 into midst of the possible negotiating on the entire
3 stipulation on the entire issue.

4 I got a call from my -- I was in touch with my
5 husband's office, and they said that Elaine Chan was
6 frantically trying to get in touch with me, telling me to sign
7 and mail this.

8 When I finally got around to reading it, it does not
9 say what I agreed to.

10 JUDGE GROSSMAN: Oh, okay. Well, then, it's not
11 fully acceptable to you.

12 MS. ROREM: No. Because I did not say that I would
13 agree -- I said I would agree to what Joe Gallo proposed in
14 his motion, which is not the same thing. It says in this
15 stipulation -- let me find it -- aside from defining that the
16 wording of the -- and scope of Contention 1(a) are as
17 follows: "Intervenor contends an adequate emergency plan for
18 the Braidwood Station should include the following: (a) a
19 program to periodically inform the public within the EPZ on
20 how they will be notified and what their initial actions
21 should be in the event of a radiological emergency originating
22 at the Station."

23 It goes on to say, "The parties agree that Rorem
24 Contention 1(a) does not include other information in 10 CFR
25 50.47(b)(7) and specifically excludes 'the principal points of

1 contact with the news media for dissemination of information
2 during an emergency (including the physical location or
3 locations) are established in advance, and procedures for
4 coordinated dissemination of information to the public are
5 established.'"

6 I didn't agree to that.

7 JUDGE GROSSMAN: Well, I take it, then, that you are
8 not agreeing to it now either?

9 MS. ROREM: I'm not. I will agree to the first
10 part. I mean, I would happily strike the second part and
11 agree to the first part. But I don't agree to that second
12 part.

13 JUDGE GROSSMAN: Well, now, Mr. Gallo, would that
14 stipulation be acceptable to you without that latter part?

15 MR. GALLO: It would not.

16 I really do not understand the perceived difference
17 between the stipulation, as prepared by Ms. Chan, and our
18 motion. Certainly, our motion intended to limit the
19 Contention to the interaction between the company and the
20 other emergency planning officials and the general public
21 residing and recreating within the ten-mile EPZ, and it did
22 not contemplate -- that is, our motion did not contemplate --
23 dealing with the exchange of information between the company
24 and the news media.

25 And indeed, the whole thrust of our motion was to

1 exclude that element from the Contention on the basis of our
2 discovery.

3 MS. ROREM: But that's not what your motion says.
4 Your motion simply says how it should read. It does not make
5 a further agreement about limitation.

6 MR. GALLO: What I am trying to say, Judge Grossman,
7 is that while the motion did not say that the parties agree
8 that it excludes matters associated with the communication of
9 information between the company and the media not actually a
10 part of 10 CFR 50.47(b)(7), the whole thrust of the motion was
11 for the purpose of excluding that very item. And I don't have
12 the motion in front of me, but I'm sure that a fair reading of
13 the motion would convey that understanding.

14 MS. ROREM: Well, I think that the motion, as
15 modified, just what it reads on the first page of the
16 stipulation and what it reads in your motion, does not
17 necessarily do what the second paragraph of the stipulation
18 says.

19 I mean, I do not read that to mean that it is
20 exclusive of any contacts between Applicant and news media and
21 so forth, which is why you put it in, meaning which is why
22 that if I cross it out, you won't be happy with it.

23 So you're agreeing and you're saying that the thing,
24 as you wrote it, did not -- the thrust might have been there,
25 or that may have been why you did it, but that's not what you

1 wrote.

2 JUDGE GROSSMAN: Well, I'm not sure I understand
3 what the differences are between you now. My recollection is
4 that at the prehearing conference, there was some informal
5 agreement to narrow that Contention to the area of the
6 information distributed prior to the emergency itself, and
7 that was what was attempted to be accomplished in the proposed
8 modification of Contention 1(a).

9 Isn't that correct?

10 MS. ROREM: I don't believe that that was agreed to
11 at the prehearing conference.

12 At the prehearing conference, I was asked by Judge
13 Brenner what specifically I mean, and I said that so many
14 questions I had had in trying to narrow this thing in my own
15 mind had been answered by Joe Gallo or others who were part of
16 the Applicants, with, "You'll have to wait until the plan
17 comes out. You'll have to wait for the State Plan. Well, the
18 plan will take care of that."

19 It was extremely important to me to see what was in
20 the plan, and that was agreed to at the prehearing conference,
21 that I would look at the plan.

22 The plan was delivered to me on August 12ths. Three
23 days, four days later, Gallo entered this morning, which
24 really aggravated me, because he hadn't even asked me how I
25 felt about it, and it did not limit it.

1 After looking at it and deciding that the wording
2 certainly, you know, as he wrote it, did encompass what I
3 intended to encompass, I agreed. I'm not thrilled with it,
4 but I agreed.

5 But when I read this stipulation, the stipulation
6 narrows it to what Joe Gallo perhaps may have desired it to
7 say, but it does not say, just on the face of it.

8 JUDGE GROSSMAN: Well, let me ask you, Mrs. Rorem,
9 do you intend to raise, in your testimony, the matters
10 pertaining to dissemination of information during an
11 emergency?

12 MS. ROREM: Well, yes, I had intended to do that.

13 JUDGE GROSSMAN: Well, I don't think we have an
14 agreement here.

15 And Mr. Gallo and Ms. Chan, if that is Intervenor's
16 intention, do you have any problem with the way we are
17 proceeding now, or do you have any suggestions on what the
18 Board ought to do now?

19 MR. GALLO: Well, I think in college we would have
20 said, "Punt," Your Honor.

21 JUDGE GROSSMAN: Well, unfortunately, the ball has
22 got to be in someone's court now, and it would seem to me as
23 though the Contention that Mrs. Rorem is offering is somewhat
24 broader than what you had thought you were trying to meet now,
25 and I believe the same is true with regard to the Staff.

1 Is that correct, Ms. Chan?

2 MS. CHAN: Yes. The Contention is considerably
3 broader than that which our testimony addresses, and we are
4 going to have to go back to FEMA and get new testimony.

5 JUDGE GROSSMAN: Well, assuming that Mrs. Rorem's
6 proposed testimony covers that additional area.

7 But I take it, it's possible that it may not,
8 Mrs. Rorem; is that correct?

9 MS. ROREM: That's correct. Well, it is possible
10 that there will be no testimony.

11 MS. CHAN: When will we know, so that we can decide
12 whether or not our testimony needs to address this?

13 MR. GALLO: Excuse me. Let me interrupt.

14 JUDGE GROSSMAN: Sure.

15 MR. GALLO: It seems to me that regardless of what
16 Ms. Rorem's testimony says, or even if she doesn't file
17 testimony, the Applicant would have the burden of proof on
18 whatever the Contention means, and if the Contention is
19 interpreted to extend as broadly as Ms. Rorem indicates, we
20 would have to provide testimony on the expanded portion of the
21 Contention, and let me use that choice of words for clarity's
22 sake.

23 Judge Grossman, you asked what I would do besides
24 punt. I would suggest that since we obviously don't have an
25 agreement on the stipulation, that the Applicant will file by

1 Wednesday, in the hands of the Board and Ms. Chan and Federal
2 Express to Ms. Rorem by Wednesday, a revised motion, if
3 necessary.

4 I will first review the papers, and if necessary, I
5 guess resubmit the motion, so it's very, very clear and
6 provide Ms. Rorem with a further opportunity to respond and
7 present her arguments as to why the Contention should be
8 interpreted in the fashion that she believes it should be, and
9 then the Board will have to rule one way or the other.

10 JUDGE CALLIHAN: Callihan here.

11 Joe, you are saying you are addressing a revision of
12 the August 15 motion?

13 MR. GALLO: Well, if there's some question -- I do
14 not have it in front of me, Judge Callihan.

15 MS. ROREM: I do.

16 MR. GALLO: But there is a question from Ms. Rorem
17 as to whether or not it was clear. I thought it was.

18 MS. ROREM: I will tell you exactly what it says.

19 JUDGE CALLIHAN: Are we talking about August 15,
20 Mrs. Rorem?

21 MS. ROREM: Yes.

22 JUDGE CALLIHAN: Okay.

23 MR. GALLO: And, Judge Grossman, at this point, I
24 would suggest that if I am in Chicago and don't have the
25 papers and need to consult with Mr. Copeland, that I will

1 return from Chicago tomorrow evening, and the first thing
2 Wednesday morning, we will turn our attention to this matter
3 and take some sort of remedial action.

4 My guess would be is that maybe we would even stand
5 on the existing motion, or, if necessary, file something new
6 and try to get the concurrence of the Staff in order to
7 abbreviate the period of time, and try to talk to Ms. Rorem on
8 Wednesday to see if there is any possibility of reconciling
9 the difference; if not, submit the difference to the Board for
10 a ruling.

11 JUDGE GROSSMAN: Okay.

12 By the way, let me ask this: Is it your position --
13 I don't right now recall the substance of your August 15th
14 motion, but did you depend at all on representations made
15 during the prehearing conference?

16 MR. GALLO: In part.

17 JUDGE GROSSMAN: Okay.

18 MR. GALLO: Representations made at the prehearing
19 conference and answers to our interrogatories.

20 JUDGE GROSSMAN: Okay. Well, that's fine.

21 Does Mrs. Rorem care to --

22 MS. ROREM: Yes. I just wanted to say that in the
23 interrogatories -- he didn't just depend on the
24 interrogatories -- wait a minute -- no, I guess it was -- it
25 was the prehearing conference. I just want to make it clear

1 that -- all right -- Your Honor said -- I'm reading from this
2 where it's quoted --

3 JUDGE GROSSMAN: By the way, before you go further,
4 I think we will make this an official transcript, Mr. Gallo.

5 I will have my office here file the required papers
6 with the reporter.

7 Okay, continue, Mrs. Rorem.

8 MS. ROREM: Okay. I'm looking for the specific --
9 the thing that I said. There was a point where he quoted me
10 and someone asked me, "Do you mean you are concerned about
11 public education before and after" -- yes, here it is.

12 Okay, this was during the deposition, a question,
13 "You are talking about education before an accident ever
14 occurs, though, is that correct?" I answered, "Absolutely."

15 I am not an attorney, and I forgot something which I
16 think I knew, which was that the word "absolutely" has legal
17 meaning, and I just want you to understand that I did not mean
18 the word "absolutely" in any legal sense.

19 JUDGE GROSSMAN: You mean in the exclusionary sense,
20 that you also might have had other things in mind?

21 MS. ROREM: Of course, yes. I meant that I was
22 extremely concerned about that. I shouldn't have said
23 "absolutely." I meant yes, of course, I am concerned about
24 that. The word "absolutely" was a very poor choice for me to
25 make, the choice of the word, because by saying "absolutely" I

1 mean that that is what my concern is limited to.

2 Am I correct that legally that's what that would
3 happen?

4 JUDGE GROSSMAN: Well, I don't think that that word
5 has any different meaning in legal terms than it has in common
6 usage.

7 MS. ROREM: I shouldn't have used the word. I
8 shouldn't have used "absolutely." I meant yes, I am very
9 concerned. And I didn't mean it to be at all exclusive on --

10 JUDGE GROSSMAN: Well, right now it appears to the
11 Board that we don't have an agreement on a stipulation, and
12 that the Board is going to have to rule on the scope of the
13 contention, and a possibility exists that if the record is not
14 clear, that Mrs. Rorem did in fact limit the contention to the
15 area that Mr. Gallo suggests, that we might have to come up
16 with a further hearing date.

17 Is that possible for the other parties here,
18 Mr. Gallo? Because it seems to me that if we do not limit the
19 contention, that you might have to come in with further
20 testimony.

21 MR. GALLO: That would be true, Judge Grossman, if
22 the contention is broadened beyond our present perception, we
23 would have to file additional testimony. I suggest that we
24 take it a step at a time. Let's see what we can do on
25 Wednesday and if it is necessary for the Board to rule, and

1 the Board rules in Ms. Rorem's favor, we may have to indeed
2 reexamine the feasibility of the presently scheduled date for
3 the 29th and 30th.

4 JUDGE GROSSMAN: But it is also possible, even if
5 the Board were to rule in Ms. Rorem's favor, that her proposed
6 testimony, if it ever does materialize, might not go beyond
7 what you have prepared in your proposed testimony, so we could
8 still be sticking with the originally set hearing date that
9 was set during this telephone conference.

10 So I think we are just going to have to play it by
11 ear then, and we cannot make a definitive ruling now.

12 Does that sound agreeable to the parties?

13 MS. CHAN: Yes, that is agreeable, your Honor.

14 MR. GALLO: That is fine with the Applicant.

15 JUDGE GROSSMAN: Okay. And with you, too, I assume,
16 Mrs. Rorem?

17 MS. ROREM: Yes.

18 JUDGE GROSSMAN: Okay. We have no further business
19 now, do we?

20 MR. GALLO: Judge Grossman, just one item that I
21 would like to mention for the record. We have been trying to
22 arrive at an agreeable date with Ms. Rorem to depose her
23 witness. I assume, Ms. Rorem, that we are still able to do
24 that, should it become a reality that your witness will
25 provide testimony in this case?

1 MS. ROREM: Yes.

2 MR. GALLO: All right, we'll leave it at that, Judge
3 Grossman, and see if we can't come up with a date for that
4 purpose by mutual agreement.

5 JUDGE GROSSMAN: Okay. Now could I ask the reporter
6 when we would have a copy of this transcript available to us?

7 THE REPORTER: Judge Grossman, generally it's
8 however you order it, whether it's daily or two-day or
9 three-day or five-day.

10 JUDGE GROSSMAN: Okay. I think we'll put in for
11 daily on this.

12 Fine. I take it that does conclude the business
13 before the Board?

14 JUDGE CALLIHAN: Just to summarize, this week we are
15 going to hear something about the revision of Rorem Contention
16 1-A. October 11, date for filing proposed, and the hearing is
17 set at the moment, at any rate, for Tuesday and Wednesday,
18 October 29 and 30.

19 JUDGE GROSSMAN: That's correct, as far as we are
20 concerned.

21 Now one more thing. Since we are restricting
22 ourselves to those two days, it may be possible that we cannot
23 get that courtroom in Joliet -- and, by the way, that would be
24 a larger courtroom than I understand you had before. And it's
25 possible that we might have to move for Chicago.

1 MS. ROREM: Is there no other place to hold the
2 hearing?

3 JUDGE GROSSMAN: If there is no other place. We'll
4 try further in Joliet, but there is that possibility. Would
5 that be acceptable to you, Ms. Rorem?

6 MS. ROREM: I would really prefer that the hearings
7 be held near the facility.

8 JUDGE GROSSMAN: Okay. Well, we'll do our best,
9 then. If it's impossible, we will just have to have another
10 telephone conference and decide on what our further measures
11 ought to be.

12 MS. ROREM: If you cannot find a place in Joliet,
13 would it be possible to move it to Kankakee?

14 JUDGE CALLIHAN: To where, Ms. Rorem?

15 MS. ROREM: Kankakee.

16 JUDGE GROSSMAN: Well, I am not familiar with the
17 geography there. Would there be any objection from the other
18 parties to that? Mr. Gallo and Ms. Chan?

19 MR. GALLO: No objection.

20 MS. CHAN: We don't have any objection if the Board
21 knows of a place in Kankakee that is suitable for the hearing.

22 JUDGE GROSSMAN: Okay. I don't know of any place
23 now, but we'll be trying Joliet and --

24 MS. ROREM: Kankakee is the county seat of Kankakee
25 County, so there are county facilities, just as there are in

1 Joliet.

2 JUDGE GROSSMAN: Okay, fine. Thank you. I believe
3 that does conclude the business before the Board.

4 MS. ROREM: Okay.

5 JUDGE GROSSMAN: Okay, thank you very much.

6 MS. CHAN: Your Honor, one more matter. This is the
7 Staff.

8 I wanted to find out if you had made any plans in
9 issuing an order on the Applicant's revised schedule for
10 discovery.

11 MS. ROREM: I must get off the phone now.

12 JUDGE GROSSMAN: Okay. My recollection was that --
13 you're referring now to the September 12th letter?

14 MS. CHAN: Yes, Your Honor.

15 JUDGE GROSSMAN: It was my understanding -- I'm a
16 little hazy on it -- that the changes were those that were not
17 required to be further adopted by the Board.

18 MR. GALLO: No, Judge Grossman. The motion that was
19 filed was seeking Board approval of revisions to the
20 schedule. I have been in contact with Mr. Guild, Intervenor's
21 counsel. He asked me just the other day whether or not the
22 Board had ruled on the motion. We're operating under the
23 assumption that the Board will approve in fact the revision to
24 the schedule.

25 JUDGE GROSSMAN: This was an agreed-upon schedule,

1 was it not, with all the parties agreeing?

2 MR. GALLO: Yes, it was.

3 JUDGE GROSSMAN: Okay. And I guess it slipped my
4 mind that I would have to issue an order. Fine. Certainly
5 the Board has no objection to the revised schedule, and we
6 will then issue an order adopting it.

7 Fine. Does that then conclude all the business
8 before us?

9 MS. CHAN: Yes, Your Honor. Thank you.

10 JUDGE GROSSMAN: Thank you.

11 MR. GALLO: Thank you, Judge Grossman.

12 [Whereupon, at 3:05 p.m., the telephone conference
13 was concluded.]

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1 CERTIFICATE OF OFFICIAL REPORTER

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3
4
5 This is to certify that the attached proceedings
6 before the United States Nuclear Regulatory Commission in the
7 matter of: COMMONWEALTH EDISON COMPANY

8
9 Name of Proceeding: [Braidwood Station, Units 1 and 2]
10 Telephone Conference Call

11 Docket No.: 50-456/50-457

12 Place: Bethesda, Maryland

13 Date: Monday, September 30, 1985

14
15 were held as herein appears and that this is the original
16 transcript thereof for the file of the United States Nuclear
17 Regulatory Commission.

18
19 (Signature)

(Typed Name of Reporter) Ann Riley

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21
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23 Ann Riley & Associates, Ltd.
24
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