



OFFICE OF THE  
SECRETARY

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

October 14, 1980

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

Transcript of Budget Markup  
August 9, 1979

The Commission previously determined that the subject transcript should be withheld from public disclosure until the Commission's FY-81 Appropriation became law.

Following enactment into law of the Commission's FY-81 Appropriation, the Secretary of the Commission, upon the advice of the General Counsel, determined that the subject transcript should be released in its entirety.

A handwritten signature in dark ink, appearing to read "John C. Hoyte", is written over the typed name.

John C. Hoyte  
Acting Secretary of the Commission

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NUCLEAR REGULATORY COMMISSION

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IN THE MATTER OF:

CLOSED MEETING

BUDGET MARKUP SESSION

Place - Washington, D. C.

Date - Thursday, 9 August 1979

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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

CLOSED MEETING

BUDGET MARKUP SESSION

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Room 1130  
1717 H Street, N. W.  
Washington, D. C.

Thursday, 9 August 1979

The Commission met, pursuant to notice, at 12:00 noon.

BEFORE:

DR. JOSEPH M. HENDRIE, Chairman  
VICTOR GILINSKY, Commissioner  
RICHARD T. KENNEDY, Commissioner  
PETER A. BRADFORD, Commissioner  
JOHN F. AHEARNE, Commissioner

PRESENT:

L. Gossick, T. Engelhardt, and H. Shapar.

\* \* \*



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n 1 CHAIRMAN HENDRIE: This will be a closed session.  
2 Let's go ahead. Fire away, Howard.

3 MR. SHAPAR: What I am requesting is that you  
4 increase the OELD's personnel ceiling for fiscal year 1980  
5 on supplemental by two positions. And our ceiling for  
6 fiscal year 1981 to 105, from 100. I will be very brief.  
7 My office --

8 COMMISSIONER GILINSKY: I am sorry. I thought the  
9 number was 105.

10 CHAIRMAN HENDRIE: No, he's at 95 now. We said  
11 three --

12 MR. SHAPAR: Two in the supplemental.

13 CHAIRMAN HENDRIE: And three in '81, which is  
14 halfway there.

15 COMMISSIONER GILINSKY: I see. Your mark was 105?

16 MR. GOSSICK: Yes.

17 MR. SHAPAR: I will be very brief. The basis for  
18 my position is that my office has remained relatively stable  
19 for the last few years, while the program has been  
20 increasing and the assignments given to other offices has  
21 been increasing. It is certainly not a one-on-one  
22 relationship. I don't pretend that it is as far as the  
23 legal services we give for an increased program commenced by  
24 other offices.

25 On the other hand, we have been paying a price.

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n 1 We have not matched proportionately or near proportionately  
2 the increases that have been given to the programmatic  
3 offices. I frankly have taken a sort of perverse pride in  
4 trying to manage my resources with what I have had, without  
5 striving to seek large increases. But the overtime  
6 continues at an alarming scale as far as I am concerned.  
7 And in view of some of the new assignments, some of the new  
8 problems that have to be solved, some of the new directions  
9 that the Commission has taken, waste in terms of grievances  
10 that are being handled and my administration and operation  
11 section, in terms of OEO complaints, in terms of increased  
12 contracting activity, in terms of enforcement, in terms of  
13 emergency planning, I don't feel I have the staff for the  
14 projected period to do the kind of a job I think you want me  
15 to do.

16 So, on that basis, I am prepared to answer any  
17 questions you may have. But I would request a modest  
18 increase, in my opinion, of 99 supplemental for '80 from 97,  
19 where it is now, and 105 rather than 100, total, for fiscal  
20 year '81.

21 COMMISSIONER BRADFORD: That would be four and  
22 six.

23 MR. GOSSICK: Right.

24 MR. SHAPAR: Yes. Lee referred to the fact we  
25 were assuming when we prepared the budget that we would be

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1 at 97, we would be going to 99. That was in the President's  
2 budget. The official energy budget. But when the budget  
3 process ended, we were at 95 rather than 97. We are asking  
4 that that be included. I am sorry.

5 COMMISSIONER BRADFORD: What has been the level in  
6 your office for the last, say, three years?

7 MR. SHAPAR: It has been around 95, 93, 95. That  
8 area. We are at 95 now.

9 COMMISSIONER KENNEDY: How many professionals?

10 MR. SHAPAR: 62 -- 65 professionals.

11 MR. GOSSICK: I might add that in the past couple  
12 of years because of a relatively constant turnover in  
13 Howard's shop, which is good, and delay in pipeline, in  
14 filling it, I have allowed him to go over. In other words,  
15 to overhire just enough to keep him up to strength. I think  
16 he's generally been able to do that but he's quite right.  
17 He has been very stable while all the rest of the activities  
18 have increased. I have watched the overtime.

19 COMMISSIONER GILINSKY: Those are the numbers you  
20 recommended?

21 MR. GOSSICK: Yes.

22 COMMISSIONER GILINSKY: 99 and 105?

23 MR. GOSSICK: Well, I recommended two in the  
24 supplemental along with the BRC. I should have taken into  
25 account the fact that he had lost the two, you know, in the



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on 1 congressional action. I went with 105 in '81.

2 COMMISSIONER AHEARNE: Howard, what is the split  
3 that you are proposing between professionals and  
4 non-professionals in the increase?

5 MR. SHAPAR: It would be all professionals.

6 COMMISSIONER AHEARNE: Where is your overtime? Is  
7 it primarily professionals?

8 MR. SHAPAR: Primarily professionals. That is  
9 common in legal offices. There is 11,065 hours for June '78  
10 to June '79.

11 COMMISSIONER KENNEDY: Part of that is because  
12 they love their work.

13 MR. SHAPAR: Part of it.

14 COMMISSIONER BRADFORD: Do you have a sense of how  
15 long your average young lawyer coming in stays?

16 MR. SHAPAR: I -- do we have an average figure on  
17 that?

18 MR. ENGLEHARDT: The average figure is about 5.4  
19 years, currently. We have had a string of good fortune in  
20 the sense that we have had a number of our attorneys  
21 remaining with us. But the average runs about, at the  
22 moment, 5.4.

23 MR. SHAPAR: I should say that, this may surprise  
24 you, that I would prefer that the attrition rate were  
25 higher. I view particularly the hearing section as

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scn 1 comparable to a large U.S. attorney's office. People come  
2 in, get hearing experience, they want to try cases. The one  
3 thing that I can offer them more than a private law firm,  
4 perhaps the biggest selling point, is quick responsibility  
5 in terms of my manpower. I have to do it. They get  
6 responsibility very quickly. The way any U.S. attorney's  
7 office works, they come in for that purpose, get their  
8 experience, become available commodity in the market and  
9 they move out. I think it suits the organization and it  
10 suits them. It is a happy mesh.

11 It is a little slow now. Attrition has been  
12 higher and I wish it would remain higher.

13 COMMISSIONER BRADFORD: Is that because there is  
14 less of a market outside now for lawyers with nuclear  
15 background?

16 MR. SHAPAR: I don't think so. I think it is so  
17 hard -- I think it is luck, neither good nor bad, but just  
18 serendipity.

19 CHAIRMAN HENDRIE: Fluctuation in the -- one of  
20 those unassignable fluctuations in the trend in personnel.

21 MR. SHAPAR: My remarks were directed at the  
22 hearing section. I don't feel that way about the other  
23 sections, for example, the regulation section, Marty Mulch  
24 and the contract section. I want a stable workforce there.

25 COMMISSIONER AHEARNE: Right now you are at 65



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son 1 professional, 30 non-professional. You would propose that  
2 all ten of the people be professionals?

3 MR. SHAPAR: Yes. Yes, I realize that you always  
4 reach a point of diminishing returns if you keep adding  
5 professionals and can't handle the administrative --

6 COMMISSIONER AHEARNE: No, no, I was just --

7 CHAIRMAN HENDRIE: I am going to vote for it.

8 COMMISSIONER KENNEDY: I will vote for it.

9 COMMISSIONER AHEARNE: I guess I would have gone  
10 to the 99 a 103.

11 CHAIRMAN HENDRIE: All right, we have 99 and 103,  
12 two 99 and 105s.

13 COMMISSIONER GILINSKY: I guess I will vote for  
14 it.

15 COMMISSIONER BRADFORD: Yes.

16 CHAIRMAN HENDRIE: You have got them, Kidus. At  
17 least you have got them to the extent of our absolutely  
18 limited powers to provide.

19 MR. GOSSICK: That is the only --

20 CHAIRMAN HENDRIE: We don't need the session this  
21 afternoon and I don't have anything for that reserve time  
22 tomorrow.

23 (Whereupon at 12:10 p.m., the hearing was  
24 adjourned.)

25