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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

February 11, 2010 - 10:09 a.m.
Concord, New Hampshire

NHPUC FEB25'10 AM 9:46

RE: DE 10-001
UNITIL ENERGY SYSTEMS, INC.:
Investigation of the Ice Storm of 2008.
(Prehearing conference)

PRESENT: Chairman Thomas B. Getz, Presiding
Commissioner Amy L. Ignatius

Sandy Deno, Clerk

APPEARANCES: Reptg. Unitil Energy Systems, Inc.:
Gary M. Epler, Esq.
Susan S. Geiger, Esq. (Orr & Reno)

Reptg. Granite State Electric Co.
d/b/a National Grid:
Sarah B. Knowlton, Esq. (McLane, Graf...)

Reptg. Residential Ratepayers:
Rorie Hollenberg, Esq.
Kenneth E. Traum, Asst. Consumer Advocate
Office of Consumer Advocate

Reptg. PUC Staff:
Edward N. Damon, Esq.

Court Reporter: Steven E. Patnaude, LCR No. 52

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P R O C E E D I N G

CHAIRMAN GETZ: Okay. Good morning, everyone. We'll open this prehearing conference in docket DE 10-001. We issued a order of notice on January 8 setting the prehearing conference today. That order of notice indicates that, on December 3, 2009, the Commission issued its final report regarding the after action review of the December 2008 ice storm. The report contains a number of action items, including Item 5.3, the commencement of an adjudicative proceeding to examine certain aspects of Unitil Energy Systems' response to the ice storm. The order of notice also required that the Company file testimony by January 29th; and testimony was filed on that date by the Company. We also have a Petition to Intervene from National Grid and the OCA's letter of participation. And, the record shows that the affidavit of publication was filed by the Company on January 27.

Can we take appearances please.

MR. EPLER: Yes. Good morning, Mr. Chairman, Commissioner. My name is Gary Epler, on behalf of Unitil Energy Systems, Inc. And, joining me as counsel on behalf of the Company is Susan Geiger, of the firm Orr & Reno. Also, attending with me this morning is Mark

{DE 10-001} [Prehearing conference] {02-11-10}

1 Collin, the Senior Vice President and Chief Financial
2 Officer of Unitil Corporation, and Thomas Meissner, Senior
3 Vice President and Chief Operating Officer.

4 CHAIRMAN GETZ: Good morning.

5 MS. KNOWLTON: Good morning. Sarah
6 Knowlton, with the McLane law firm. I'm here today on
7 behalf of Granite State Electric Company, doing business
8 as National Grid.

9 CHAIRMAN GETZ: Okay. Good morning.
10 Other parties? Well, Councilor Hollingworth, I understand
11 that you would like to make a public statement today?

12 COUNCILOR HOLLINGWORTH: I would.

13 CHAIRMAN GETZ: Okay. I think what
14 we'll do is take further appearances from the parties.
15 We'll let the parties make a statement of their case, and
16 then we'll provide the opportunity for a public statement.

17 COUNCILOR HOLLINGWORTH: Could I
18 possibly come back then? Because, unfortunately, I have
19 to be at the State House at 11:00 this morning. So, I was
20 going to be very brief. I was hoping to be able to just
21 make a few statements beforehand, if possible.

22 CHAIRMAN GETZ: Okay. Well, I don't
23 think that would take very long. But why don't we just
24 get the appearances on the record. And, then, if there's

1 no objection, we'll have Councilor Hollingworth make her
2 public statement, and then we'll provide the opportunity
3 for the parties to make their statements of their
4 positions.

5 COUNCILOR HOLLINGWORTH: Thank you.

6 MS. WILLIAMSON: Cathleen Williamson.

7 I'm here with Unitil.

8 MS. VALIANTI: Carol Valianti. I'm here
9 with Unitil.

10 CHAIRMAN GETZ: Good morning.

11 MS. HOLLENBERG: Good morning. Rorie
12 Hollenberg and Kenneth Traum, here on behalf of the Office
13 of Consumer Advocate.

14 CHAIRMAN GETZ: Good morning.

15 MR. DAMON: Good morning, Commissioners.
16 Edward Damon, for the Staff. And, with me this morning
17 are Randy Knepper, Director of the Safety Division, and
18 Tom Frantz, Director of the Electric Division.

19 CHAIRMAN GETZ: Okay. Good morning.
20 Well, then, Councilor Hollingworth.

21 COUNCILOR HOLLINGWORTH: Thank you.
22 Would you like for me to do it from here?

23 CHAIRMAN GETZ: Yes. I think that the
24 court reporter can hear you through the microphone fine.

1 COUNCILOR HOLLINGWORTH: Thank you very
2 much. Thank you for allowing me to speak to you briefly
3 this morning. First, I want to make it quite clear that I
4 have not been asked to attend here by anyone. I did
5 notify Unitil that I was hoping to come and to say a few
6 words on their behalf.

7 For full disclosure, I want to say that
8 I have a son who's worked for Unitil for many, many years
9 in the rank and file. He is not in administration, but
10 one of those laborers that were out there during the
11 storm, and a little more about that as we go forward.

12 My history with Unitil goes way back.
13 My history with the PUC goes even further back than that.
14 In fact, many years ago, and I was surprised that Cliff
15 isn't here, the day that I was sworn in to the Senate I
16 was in court in Concord, because I had been sued by Great
17 Bay, who was in the process of trying to get money from
18 the IDA, and some of you may remember that. It was a slap
19 suit against me for \$22 million, because I opposed their
20 getting 22 million. And, as it turned out, they did get
21 the money from the state, and several months shortly after
22 that they went bankrupt. So, I have had -- and, at that
23 time, Great Bay was trying a hostile takeover of Unitil.
24 And, Unitil had been, in my eyes, and many of the people

1 who they had serviced, a company that we wanted to see
2 continue; and they have. And, they have been a very good
3 business for the State of New Hampshire. They have -- I
4 worked with them with the Chamber of Commerce, and worked
5 with not-for-profits. They have been very generous with
6 their support for any of the activities within the
7 communities and within the state. So, I feel very
8 strongly that they have been a business that really has
9 been involved in doing the right thing in New Hampshire.

10 So, it was with a little bit of surprise
11 that I had heard that they had been singled out, because I
12 had firsthand information, being one of the people who's
13 family was, and my son, who was directly involved in this
14 situation. The first 48 hours of the ice storm, my son,
15 for the first two days, did not have any sleep, like a lot
16 of other people. He worked. His home was without power
17 as well. And, they worked, and it happened to be his
18 birthday on the 12th of December, and he didn't even know
19 that it was his birthday. And, no one thought, he was so
20 busy working, that there was no recognition of any of
21 that.

22 And, the other people that worked for
23 Unutil, and I have seen many of them, I have to tell you,
24 there was a chill when it came out that they were --

1 Unitil was being singled out, for whatever reason, their
2 response to the ice storm. And, these people, who put
3 their lives in dangerous and worked tremendously over that
4 period of time, are feeling right now, and that's why I'm
5 kind of here, that they somehow didn't do enough. And, I
6 can tell you that they did. They worked -- I meet many of
7 them throughout my 35 towns, and they are the ones that
8 really feel that this inquiry into how the response was to
9 the ice storm affects them. And, so, I want to be sure
10 that, as you move forward with that, that you keep that in
11 your mind. Because these are the people who do, day-in
12 and day-out, their job for the best interest of the
13 Company, which has been very good to their employees.

14 I know that, when I spoke to the Office
15 here today before, wondering why this inquiry was being
16 made, "was there something that I needed to know?" They
17 said "it was the only way that they could do an inquiry.
18 That they needed to ask questions." And, I find that
19 there should possibly be a better system, so that we know
20 what problems are and what questions are going to be
21 asked, as far as, you know, "what could they have done
22 more?" And, I guess that's what you're going to try to
23 find out. And, so, I'm anxious to see how long this is
24 going to take and what your findings will be.

1 And, with that, I thank you very much
2 for letting me speak.

3 CHAIRMAN GETZ: Thank you, Councilor.
4 Mr. Epler.

5 MR. EPLER: Thank you, Mr. Chairman and
6 Commissioner. As the Commission is aware, the 2008 ice
7 storm caused devastating and record-setting damage
8 throughout a broad area of New England. Central Vermont
9 Public Service Company stated publicly that this storm was
10 twice as bad as the prior worst storm it had experienced.
11 Public Service of New Hampshire has stated publicly that
12 this storm caused three times as many outages as its prior
13 worst storm of all time.

14 As measured by the effort required to
15 restore power and the physical damage to the electric
16 system, the 2008 ice storm was several orders of magnitude
17 more severe than any previous storm experienced in the
18 areas served by Unitil in north central Massachusetts and
19 along the New Hampshire seacoast. Utilities across the
20 region reported that more than one million customers were
21 without power, some of whom lost power for longer than two
22 weeks.

23 The Company submits that it responded to
24 the 2008 ice storm in a dedicated and prudent manner, and

1 is proud of the heroic efforts of its employees,
2 contractors, and crews from other utilities, all of whom
3 worked tirelessly around the clock through frigid
4 temperatures and two subsequent winter storms until all
5 customers were restored. Unitil restored power to over
6 75 percent of its customers within three days, and nearly
7 all of its customers by December 21st, with the exception
8 of a few individual service problems.

9 Following the 2008 ice storm, Unitil has
10 taken a number of steps to strengthen its ability to
11 prepare for, and respond to, future storms. These steps
12 include a comprehensive self-assessment, which recommended
13 28 specific improvements to Unitil's storm preparation and
14 response. The Company has made significant progress in
15 its emergency response capability and has completed nearly
16 all of the Report's recommendations. The remaining work
17 is related to the installation of an Outage Management
18 System. Full deployment of the Outage Management System
19 is expected to occur by the end of the second quarter of
20 this year, 2010. Unitil also conducted a system-wide
21 simulated outage training exercise on September 18th,
22 2009. And, we have additional plans this year to do some
23 smaller, localized simulated training exercises, and
24 another comprehensive system-wide training exercise. The

1 Company has fully cooperated with the Commission's
2 informal ice storm investigation conducted by its Staff.
3 To day, we've responded to 74 data requests directly from
4 the Commission Staff, and many dozen more from the
5 Commission's consultant, NEI. We also participated in
6 several technical sessions and conference calls with NEI.

7 The Company also responded to the
8 specific action items set forth in the Commission's
9 December 2008 Ice Storm After-Action Review. As required,
10 on December 23rd, 2009, the Company filed an amendment to
11 its Emergency Response Plan, which outlines how crews are
12 allocated when simultaneous large-scale events occur in
13 multiple states and jurisdictions.

14 And, as the Chair recognized, on
15 January 29th, Unitil complied with the order of notice and
16 filed the testimonies of Thomas Meissner, Senior Vice
17 President and Chief Operating Officer; Ray Letourneau,
18 Director of Electric Operations; and Richard Francazio,
19 Director of Emergency Management and Compliance.

20 This testimony addresses the issues
21 identified in the Commission's January 8th 2010 Order of
22 Notice and in its After Action Report. The testimony
23 discusses the deployment of resources during the 2008 ice
24 storm, including Unitil's restoration strategies and

1 priorities, the procurement and allocation of resources
2 among service areas, and the impact of these activities on
3 customers. The testimony also clarifies and corrects
4 certain aspects of the NEI Report.

5 As set out more fully in its testimony,
6 Unitil believes that it applied reasonable and appropriate
7 strategies to restore power, both with respect to the
8 allocation of crews among its three service areas and the
9 prioritization of work effort within each area to restore
10 the maximum number of customers in the shortest amount of
11 time.

12 The actions of Unitil during the ice
13 storm were consistent with those of the other New
14 Hampshire utilities in response to the storm, and are also
15 consistent with industry practice.

16 The Company allocated resources to its
17 three service areas based on an assessment of the amount
18 and type of repair work to be completed, striving to
19 optimize the efficiency of the restoration effort and
20 appropriately match available resources to repair work and
21 estimated restoration times.

22 Unitil prioritized its repairs to
23 restore service to the largest number of customers as
24 quickly as possible, giving priority to public safety,

1 such as wires down, critical facilities, and critical
2 needs customers.

3 Decisions often had to be made with
4 limited information regarding system damage, the type of
5 damage, and the extent of repairs needed to restore large
6 numbers of customers, and were appropriate in the
7 circumstances.

8 Resource allocations among and between
9 service territories across state lines were insignificant
10 and immaterial in comparison to the overall restoration
11 effort and the amount of resources needed to complete the
12 restoration.

13 Finally, the pace of customer
14 restoration in Unitil's New Hampshire territories were
15 comparable to other utilities, despite the loss of a
16 significant contingent of mutual aid crews, which occurred
17 early on during the storm restoration effort.

18 Unitil appreciates this opportunity to
19 directly address these matters and to respond to the
20 Commission's concerns, and hope that these issues may be
21 resolved quickly. We also welcome the opportunity to
22 address any specific questions or concerns that the
23 Commission may have at this time. Thank you.

24 CHAIRMAN GETZ: Thank you.

1 Ms. Knowlton.

2 MS. KNOWLTON: Thank you. On
3 January 22nd of this year, Granite State Electric Company
4 filed a Petition to Intervene in this docket. Mr. Damon
5 has informed me this morning that the Staff will be
6 objecting to that intervention petition. Granite State
7 Electric is interested in participating in this docket,
8 because, like Unitil, it operates in other jurisdictions.
9 It has an affiliate -- has affiliates in Massachusetts,
10 and it relies on, in cases of major storm events, crews
11 from other jurisdictions sometimes, that come into New
12 Hampshire and provide storm restoration services.

13 Granite State Electric is primarily
14 interested in monitoring this docket, and I don't believe
15 that its participation will be disruptive in any way. Our
16 concern, the Company's concern is that the Commission, you
17 know, may consider and make decisions in this docket of a
18 policy nature that may have an impact on other utilities
19 in this state and their responses to storms in the future.
20 So, in that respect, I think Granite State's rights,
21 duties, and privileges could be affected by this
22 proceeding, and would ask that the Petition to Intervene
23 by granted.

24 CHAIRMAN GETZ: In looking at the

1 Petition to Intervene, Ms. Knowlton, it talked about
2 "having a substantial interest in monitoring" and
3 intending to "remain aware". And, I guess I'm concerned
4 whether that interest qualifies as a basis for requiring
5 intervention as a party. And, it seems to me that you can
6 remain aware and monitor, without being granted
7 intervention as a party.

8 MS. KNOWLTON: Well, I think, and, you
9 know, and perhaps it wasn't well stated in the
10 intervention petition, but I think further on in the
11 petition, at Paragraph 4, describes, you know, in more
12 specificity what the Company's interested in, and the
13 extent of its participation, such as receiving pleadings
14 and discovery that's served between the parties, and
15 possibly participating in briefing that may occur. I
16 mean, if there is an issue that has broader significance
17 for other utilities on a going-forward basis, it's
18 possible that Granite State would want to voice its
19 opinion and its thoughts on what that issue is.

20 So, in that respect, I mean, it is more
21 than monitoring and just sitting back and reading. It's
22 not clear to me, you know, whether this is -- this inquiry
23 is going to be focused entirely on, you know, just
24 Unitil's specific performance, and whether or not there

1 would be issues and recommendations that would come out of
2 this docket that could have an impact on Granite State.

3 CHAIRMAN GETZ: Okay. Let's -- well,
4 we'll give everybody else a chance to speak to whether
5 they have a petition on the Petition to Intervene.
6 Ms. Hollenberg.

7 MS. HOLLENBERG: Thank you. We don't
8 have a position on the underlying case at this point.
9 Obviously, the investigation is only beginning. I would
10 just note that -- and we have no position on the Petition
11 to Intervene by Granite State. We'll leave that to Unitil
12 and to Staff to address. But I would note that we are
13 having some difficulty in obtaining or at least gaining an
14 understanding of all the discovery that was conducted by
15 the Commission's consultant. It seems as though it's a
16 mystery as to all the questions that the Commission's
17 consultant may have asked. And, so, I'm thinking that the
18 best way to get the answer to that might be to have the
19 Commission ask its consultant to provide us with a list of
20 all their requests of Unitil, because we can't seem to get
21 it -- get at it the other way.

22 We didn't participate actively in the
23 ice storm investigation. We weren't copied on all of the
24 requests and responses. And, at this point, we have a

1 list of what we have that NEI asked and Unitil answered,
2 but we're not aware if that's a complete list of all their
3 requests. And, so, I don't know if you want me to ask
4 that in a formal way, through a letter to the Commission,
5 or if this would be -- this would suffice, to have the
6 Commission ask its consultant to provide us with a list of
7 all requests that it made to Unitil, so we might check our
8 own list to see if we're missing any responses.

9 CHAIRMAN GETZ: Well, I think that may
10 be something to pursue through the technical session,
11 because I think you're kind of asking one of those
12 questions as "I don't know what's there, tell me what
13 might be there that I don't know might not be there."

14 MS. HOLLENBERG: Right. And, I've asked
15 the Staff and I've asked the Company, --

16 CHAIRMAN GETZ: Okay.

17 MS. HOLLENBERG: -- and there's no
18 certainty as to all the questions that NEI asked at this
19 point. That --

20 CHAIRMAN GETZ: If there are any indeed
21 that you're not privy to. So, I think, to try and find
22 out the full universe, I would suggest starting through
23 the technical session to see if there's relevant
24 information that may or may not be out there that should

1 be part of this inquiry.

2 MS. HOLLENBERG: Okay. I will say that
3 we've engaged in a number of conversations before today
4 with Staff, and we've asked the Company. And, no one has
5 been uncooperative. It's just the responses that we are
6 getting is, no one really seems to know all of -- know
7 with any certainty all of the questions that NEI asked of
8 Unitil. So, I think --

9 CHAIRMAN GETZ: Which may have been
10 verbal or in writing, you just don't know?

11 MS. HOLLENBERG: Right. And, I guess it
12 seemed to be the better approach to have NEI actually
13 provide the OCA with a list of the questions that they
14 asked, so that we might compare their list of questions
15 with the responses that we have, and then say to the
16 Company "we're missing X, Y, and Z responses."

17 CHAIRMAN GETZ: Okay. Well, I'll give
18 Staff and the Company a chance to respond to that.

19 MS. HOLLENBERG: Okay.

20 CHAIRMAN GETZ: But it still sounds to
21 me it might be something that might better explored
22 through the technical conference. And, if it can't be
23 resolved, then it be forwarded to us as a report on the
24 technical conference as a discovery issue.

1 MS. HOLLENBERG: Okay. That's fine.
2 Thank you.

3 CHAIRMAN GETZ: Mr. Damon.

4 MR. DAMON: Yes. Thank you. Certainly,
5 Staff is willing to talk to the OCA about what information
6 it needs. I had understood that the OCA was interested in
7 getting copies of two sets of Staff data requests that I
8 think were -- and I think we responded that they were
9 posted on the website. That's all I've heard of so far.
10 But, certainly, if the OCA feels it needs more
11 information, we would be happy to talk with them about
12 that, as well as the Company, if they -- they may feel
13 they need more information, too, I don't know.

14 CHAIRMAN GETZ: Okay.

15 MR. DAMON: Let me just and also address
16 briefly the merits and the Petition to Intervene filed by
17 Grid. On the merits, Staff fully expects to carefully
18 investigate the issues raised in this docket. I think
19 it's important to note that, from Staff's point of view,
20 the focus is on what happened in the past with respect to
21 the 2000 [2008?] ice storm. And, the emphasis is really
22 on the management, planning, and decisions. I don't think
23 we have issues with respect to what the actual employees
24 were doing in response to the ice storm, because I know

1 they were really working hard to do the best they could,
2 but it's more on the management aspects of the response.

3 In terms of National Grid's Petition to
4 Intervene, Staff does not believe that Grid has met its
5 burden of demonstrating, as it's required to do, that its
6 "rights, duties, privileges, immunities or other
7 substantial interests [are] affected by the proceeding."
8 The interest that it has set forth are affected only at
9 most indirectly and contingently. And, with respect to
10 that, Grid has said that it's concerned that the "actions
11 the Commission may take with respect to Unitil's
12 management of future storm events may be relevant to the
13 interests of the Company and its response to future
14 storms." Again, the focus on this docket is what happened
15 in the past with respect to the 2008 ice storm, not future
16 storm events. So, it is true that the Company and other
17 companies have begun to respond further on how they
18 changed their plans and what they intend to do for the
19 future.

20 Now, primarily, I think Grid has asked
21 to be granted intervenor status for monitoring purposes.
22 And, I would just note that, under the Commission's system
23 for tracking and -- tracking participation, there's two
24 general categories: One is "interested party status" and

1 another is "intervention". "Interested party status"
2 allows people on that list to get copies of certain
3 filings and issuances by the Commission. But it does not
4 allow them to get automatically from the Commission, or
5 the other parties in the docket, copies of the discovery.
6 Okay, so that's one thing they don't get. Whereas, if you
7 do intervene, then you do get, as well as what you get for
8 being an interested party, you also get the discovery.

9 Now, it may be that Grid may want to get
10 discovery for monitoring purposes. And, to that extent,
11 the Staff does not object to designating Grid as an
12 intervenor, but that would be for the sole purpose of
13 receiving discovery that it would not get as an interested
14 party.

15 In addition, they wish to preserve the
16 opportunity to file a brief. And, again, it seems to me
17 that that could be addressed either by the Company making
18 either a public statement or even filing a brief as an
19 *amicus* of some sort in this case. So, I think their
20 interests are protected, even though, in a formal sense,
21 it would not be granted intervenor status.

22 If, however, the Commission disagrees
23 with the Staff's position, and believes that intervention
24 as a formal party should be granted to Grid, Staff would

1 request that Grid be made subject to receipt of discovery
2 by Staff, should it so elect. Thank you.

3 CHAIRMAN GETZ: All right. Mr. Epler,
4 I'll give you an opportunity to speak to the Petition to
5 Intervene and to the issues raised by Ms. Hollenberg.

6 MR. EPLER: Can I have just a moment
7 please?

8 (Atty. Epler conferring with
9 representatives of Unitil.)

10 MR. EPLER: Thank you, Mr. Chairman,
11 Commissioner. A couple of points. With respect to the
12 questions on the discovery that were raised by the OCA, we
13 first want to point out that we think that the scope of
14 this docket is narrower than the earlier informal
15 investigation, so that a lot of what was asked is not
16 necessarily germane to the proceedings here. In terms of
17 providing the OCA access, I did attempt to go through our
18 electronic files last night, and I do have, actually, on
19 my hard drive with me this morning, what I believe were
20 the formal written responses we provided to NEI. And, I'm
21 happy to make copies of that to provide to the OCA. What
22 they may be referencing is that there were numerous phone
23 conversations and informal-type contacts between NEI and
24 technical people at Unitil. And, so, there is not

1 necessarily a precise record of all those. But, again, a
2 lot of that just covered a very wide range of subjects
3 that are not necessarily things that are germane to the
4 subject area as we believe have been outlined in the Order
5 of Notice in the proceeding and as indicated in the After
6 Action Report, describing what issues were the concerns of
7 the Commission.

8 With respect to the Motion to Intervene,
9 we had been contacted by counsel for Granite State, and
10 indicated we had no objection to their intervention, and
11 that is our position. As a utility company that often
12 intervenes in other utility company cases, we're somewhat
13 weary about trying to restrict that intervention, because
14 there are times, depending upon what develops in a case,
15 where we, as a company, would have an interest in what
16 develops.

17 On the other hand, there are also, if
18 the scope is narrow and its focus is on specific issues of
19 Unitil, I think that there's probably less concern, and
20 that something can be crafted to allow an appropriate
21 access to Granite State to the germane issues and ensure
22 that they are informed of developments that may affect
23 them as a utility company.

24 CHAIRMAN GETZ: All right. Anything

1 else on any of these issues?

2 MS. HOLLENBERG: If I could, I just -- I
3 want meaning to imply that Staff and the Company weren't
4 working cooperatively. It was more a lack of
5 understanding of actually what NEI had done. And, I do
6 agree that, you know, I expect that the discovery that NEI
7 conducted would be much broader than what you're focusing
8 on in this docket, and it's not our intention to use that
9 discovery. But we can't make a determination about what
10 would be useful and relevant to this case without knowing
11 the universe of questions and responses. And, we'll work
12 together with the Company and the Staff afterward to
13 resolve this issue.

14 CHAIRMAN GETZ: Okay. All right.
15 Anything further?

16 (No verbal response)

17 CHAIRMAN GETZ: Hearing nothing, then
18 we'll close the prehearing conference. And, we'll await a
19 report of the technical session, and take the Petition to
20 Intervene and the other issues under advisement. Thank
21 you, everyone.

22 (Whereupon the prehearing conference
23 ended at 10:40 a.m., and thereafter a
24 technical conference was held.)