

1/28/80

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
METROPOLITAN EDISON COMPANY,)	Docket No. 50-289
ET AL.)	
(Three Mile Island, Unit 1))	



NRC STAFF RESPONSE TO ECNP INTERVENORS' REVISED CONTENTION
ON EMERGENCY PREPAREDNESS AND EMERGENCY RESPONSE

I. Introduction.

On January 7, 1980, the Environmental Coalition on Nuclear Power (ECNP) filed its Revised Contention on Emergency Preparedness and Emergency Response (Revision). This Revision was filed pursuant to its earlier request to the Licensing Board for an open-ended extension of time in which to file its Revision. ECNP requested that the length of the extension encompass the amount of time necessary for Licensee to assure ECNP that it had been provided with Licensee's most up-to-date emergency plan and that there would be no further substantive changes in that plan before the hearing. See ECNP Intervenor's Request for an Extension of Time to File a Revised Contention, December 20, 1979 (Request), at 2. ECNP also attempted to explain why its Request had been mailed one day after the due date of December 19, 1979 previously established for revised contentions on emergency planning. In explanation, ECNP stated that it had not known which emergency plan to review for a revised contention particularly in light of a letter to the Board from

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Licensee. ECNP asserted that this letter suggested the possibility of a future emergency plan. ECNP also pointed to amendments to the plan, of which it was aware yet had not received, and claimed that ignorance of the contents of these amendments led to its inability to honor the deadline earlier imposed by the Board. Request, supra at 2.

In response, the Licensing Board noted that ECNP's Request had been filed too late for timely board consideration. The Board further stated that ECNP had had no basis to assume that the Board would grant an extension and that in light of an earlier Board directive, ECNP should have proceeded to comply with the Board's original order until the Board ruled on ECNP's request for an extension. Memorandum and Order Ruling on Intervenors' Request for Extensions of Time to File Revised Emergency Planning Contentions, January 8, 1980 (Order), at 2.

At the Special Prehearing Conference the Board had explicitly directed the parties either to meet previously established deadlines or to ask the Board for an extension of time before passage of a deadline. ECNP not only failed to comply with the two-pronged guidance, but also, according to the Board, offered unconvincing reasons for not having done so. The Board therefore denied ECNP's Request and stated that a late filing of a revised emergency planning contention would be considered under the standard delineated in 10 C.F.R. §2.714(a)(1). Accordingly, the revised emergency planning contentions filed by ECNP on January 7, 1980 must be measured against the standards for late filing set forth in section 2.714(a)(1).

II. Justification for Untimely Filing of Revised Emergency Planning Contentions.

Section 2.714(a)(1), which generally pertains to written petitions for leave to intervene, states that nontimely filings will not be entertained absent a determination by the board designated to rule on the filing that the late request should be granted. In reaching a decision under this section, boards are directed to balance the following five factors:

- (i) Good cause, if any, for failure to file on time.
- (ii) The availability of other means whereby the petitioner's interest will be protected.
- (iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
- (iv) The extent to which the petitioner's interest will be represented by existing parties.
- (v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

Under the first factor, ECNP has the burden of showing good cause for its failure to file revised contentions before the deadline imposed by the Board. Nevertheless, ECNP has offered nothing to establish good cause and thus has failed to meet this burden.^{1/}

^{1/}In its December 20, 1979 Request for an Extension of Time, ECNP offered various reasons for its late filing of revised emergency planning contentions. The Board justifiably found those reasons unconvincing and insufficient to establish good cause. Order at 4. ECNP has presented no additional information that would affect this conclusion.

The good cause factor alone is not determinative of whether untimely filings may be accepted. Rather, the other four factors of 10 C.F.R. §2.714(a) must be examined. Long Island Lighting Co. (Jamesport Nuclear Power Station, Units 1 & 2), ALAB-292, 2 NRC 631, 635 (1975). Where, however, good cause has not been demonstrated, ECNP bears the additional burden of making a compelling showing on the other four factors. Nuclear Fuel Services, Inc. (West Valley Reprocessing Plant), CLI-75-4, 1 NRC 273, 275 (1975); Puget Sound Power & Light Company (Skagit Nuclear Power Project, Units 1 & 2), ALAB-559, 10 NRC 162, 169 (1979); ERDA (Clinch River Breeder Reactor Plant), ALAB-354, 4 NRC 383, 388-89 (1976); Virginia Electric & Power Company (North Anna Station, Units 1 & 2), ALAB-289, 2 NRC 395, 398 (1975). Notwithstanding this additional burden, ECNP has wholly failed even to address the other four factors of 10 C.F.R. §2.714(a), let alone to make a compelling showing on those factors. In view of the fact that ECNP is represented by an individual experienced in NRC litigation and knowledgeable of the requirements for untimely filings,^{2/} ECNP's total failure to justify its late filing warrants summary rejection of ECNP's revised emergency planning contentions.^{3/}

^{2/} Parties experienced in NRC practice are held to higher standards than are pro se intervenors. Cf. Kansas Gas & Electric Co. (Wolf Creek Generating Station, Unit 1), ALAB-279, 1 NRC 559, 576-77 (1975).

^{3/} Like the Board, the Staff is concerned that "[t]he time and attention required for the board and the affected parties to address the problems created by unorthodox procedure [such as ECNP's] diverts attention from the important safety questions in issue in this proceeding." Order at 3.

The Staff has, nevertheless, examined factors 2 through 5 of Section 2.714(a)(1) in order to ascertain whether there is a basis for accepting ECNP's revised emergency planning contentions despite ECNP's failure to address the matter of untimeliness. In evaluating these factors as they would apply to ECNP, we have been cognizant of the Commission's admonition ". . . that favorable findings on some or even all of the other factors in the rule need not in a given case outweigh the effect of inexcusable tardiness." West Valley, CLI-75-4, supra at 275.

The pivotal determination necessary to resolve the inquiries provided in the last four factors is whether other parties to this proceeding have raised contentions similar to those of ECNP. Although such a determination would seem to be particularly responsive to the fourth factor, namely "[t]he extent to which the petitioner's interest will be represented by existing parties," an interrelationship exists between the fourth factor and the third and fifth factors.^{4/} For this reason, a conclusion regarding whether ECNP's contentions

^{4/} This interrelation does not exist where a petitioner's interest in becoming a party to the proceeding is at stake. Where the admission of a contention is involved, however, whether the party's participation may reasonably be expected to assist in developing a sound record (factor 3) or to broaden the issues or delay the proceeding (factor 5) is a function of whether the contentions asserted are unique when compared to those raised by other parties and allowed by the board.

have also been addressed by other parties to the proceeding will determine "[t]he extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record" (factor 3) and "[t]he extent to which the petitioner's participation will broaden the issues or delay the proceeding" (factor 5).^{5/}

In an effort to establish whether ECNP has raised contentions that are unique in comparison to those raised by other parties to this proceeding, the Staff has first sifted out those of ECNP's contentions that the Staff believes to be inadmissible. In Part III of this response, infra, the Staff discusses the admissibility of each contention individually under the standards set forth in 10 C.F.R. §2.714(b). For the contentions in which the Staff finds that the bases for the assertions are set forth with reasonable particularity, the Staff will ascertain whether other parties have raised similar contentions.

In the Staff's view, the following contentions are admissible under the standards delineated in 10 C.F.R. §2.714(b):

Revision, Pages 2-3 -- (3)
Revision, Page 3 -- (b)
Revision, Page 4 -- (6)
Revision, Pages 4-5 -- (10)
Revision, Page 5 -- (11), (16b.), (16c.), (16d.)
Revision, Page 7 -- (1), (2), (4), (6)

^{5/} As to factor 2, "[t]he availability of other means whereby the petitioner's interest will be protected," the Staff is aware of no other proceedings in which ECNP may challenge Licensee's emergency plan. Moreover, ECNP may not appeal an order denying the admissibility of certain contentions until after the completion of this proceeding. Gulf States Utilities Co. (River Bend Station, Units 1 & 2), ALAB-329, 3 NRC 607, 610 (1976). Consequently, there appears to be no other means by which ECNP can have its revised emergency planning contentions addressed and the second factor thus would favor acceptance of these untimely contentions.

Revision, Page 8 --(8), (9)
Revision, Page 9 --(13)
Revision, Page 10 --(20)
Revision, Pages 10-11--(23)
Revision, Page 11 --(24), (26), (28), (30)
Revision, Page 12 --(32), (33), (36), (37), (38).

Of these contentions, the substance of the following have been raised by other parties to this proceeding:

Pages 2-3, (3) and (b): Anti-Nuclear Group Representing York (ANGRY) III(A)(I) (December 18, 1979); Newberry Township TMI Steering Committee (Newberry) 3(7) (January 11, 1980); Sholly 8(G), (H), (I), (V), (X) (December 17, 1979).

Page 4, (b): Sholly 8(CC) (December 17, 1979).

Page 5, (16c.): Aamodt 5 (Postmarked October 23, 1979); ANGRY III(A) (B) (December 18, 1979).

Page 5, (16d.): ANGRY III(a) (J) (4) (December 18, 1979); Sholly 8(X) (December 17, 1979).

Page 6, (17): Sholly 8(B) (December 17, 1979).

Page 7, (4): Newberry 3(4), (9) (January 11, 1980); Sholly 8(E) (December 17, 1979).

Page 8, (8): Sholly 8(B) (December 17, 1979).

Page 8, (9): Sholly 8(DD) (December 17, 1979).

Page 9, (13): Newberry 3(3) (January 11, 1980); Sholly 8(W) (December 17, 1979).

Page 10, (20): Sholly 8(W) (December 17, 1979).

Page 11, (30): Newberry 3(3) (January 11, 1980); Sholly 8(W) (December 17, 1979).

There remain some contentions raised by ECNP that the Staff has found to be admissible but which other parties have failed to raise:

Pages 4-5, (10)
Page 5, (11), (16b.)
Page 7, (1), (2), (6)
Pages 10-11, (23)
Page 11, (24), (26), (28)
Page 12, (32), (33), (36), (37), (38).

The fact that these contentions set forth a basis with reasonable specificity in compliance with 10 C.F.R. §2.714(b), coupled with the fact that none of the parties to this proceeding have raised similar contentions, leads the Staff to suggest that the Board permit ECNP to litigate these claims notwithstanding ECNP's failure to establish good cause for its late filing. If ECNP is allowed to litigate these unique contentions, ECNP's participation will assuredly broaden the issues, but will not delay the start of this proceeding (factor 5). Furthermore, ECNP's participation can reasonably be expected to assist in developing a sound record (factor 3) on the emergency planning issue.

III. Admissibility of ECNP's Revised Emergency Planning Contentions.

As noted earlier, in this section the Staff examines ECNP's emergency planning contentions pursuant to 10 C.F.R. §2.714(b). Section 2.714(b) mandates that the basis for each contention be set forth with reasonable specificity. ECNP's contention appears to be subdivided into sub- or mini-contentions. For this reason, the Staff has devised its own method of renumbering to facilitate identification of each contention. The first contention appears on page 2 of the Revision.

Page 2, (1)

"Until it [the emergency plan] has been realistically tested, its efficacy can only be considered speculative." The Commission has indicated in its August 9, 1979 Order that Licensee must conduct a test exercise of its emergency plan as one method to improve its emergency preparedness. Order at 6. This contention provides no basis for asserting that the test exercise mandated by the Commission's Order is either defective or deficient. Moreover, the contention provides no specificity with the result that the term "tested" as utilized by ECNP could be defined in a multitude of ways. In sum, the Staff objects to this contention because it lacks a basis set forth with reasonable specificity.

Page 2, (2)

"[N]otification of the public that an accident is in progress and that local radiation exposure rates are rising is delayed, and then notification only takes place after the information has passed through a number of levels of corporate

and political bureaucracy." ECNP has provided no basis set forth with reasonable particularity in support of its contention. Therefore, the Staff objects to its admission into this proceeding.

Pages 2-3, (3)

"[T]he plan offers no assurance that the information released to the public will be accurate, complete, candid, honest, and timely, and devoid of political tampering or modifications designed to satisfy corporate public relations purposes rather than the public's need for full and reliable information." ECNP has not set forth with any particularity the basis of this contention so that other parties are sufficiently put on notice to the extent that they will generally know what issues they wish to either champion or oppose. See Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 & 3), ALAB-216, 8 AEC 13, 20 (1974). Therefore, the Staff objects to the admission of this contention.

Page 3, the first two full paragraphs

These paragraphs appear to be intended as support for the above contention labeled (3), at 2-3 of the Revision. There is no basis set forth in support of ECNP's identification of Licensee's "subtle underlying assumption that permeates the entire plan" or the implication of the plan that people should "simply sit tight in ignorance of events. . . ."

Page 3, last paragraph, item (a)

This contention is too unspecific and vague in that it does not describe the details of the "live drills" or the "areas potentially affected by accidents at TMI." Therefore, the Staff objects to admission of this statement as a contention in this proceeding.

Page 3, last paragraph, item (b)

This contention seems in part to suggest that the public should be guaranteed notification of unplanned radioactive releases before they actually occur. To the extent that this contention is a non sequitur, the Staff objects to its admission. Moreover, ECNP provides no basis for its assumption that the public will not receive candid, honest and complete information. The Staff does not object, however, to the part of the contention that calls for accurate and timely notification but suggests that this contention be consolidated with contention (3), supra at 2-3 of the Revision, which is directed to the need for accurate and timely dissemination of information.

Page 3, last paragraph, item (c)

The Staff objects to this contention insofar as it asserts that the public should be guaranteed candid, honest notification of unplanned releases for the same reasons as those set forth above with regard to (3) at 2-3 and (b) at 3 of the Revision.

Page 3, last paragraph, item (d)

ECNP asserts that the rights of members of the public to avoid radiation exposure must be recognized, honored, protected and guaranteed yet no basis, set forth with particularity, is presented for asserting that the emergency plan is inadequate in this regard and specific inadequacies are not identified. Therefore, the Staff objects to admission of this contention.

Page 4, in general

ECNP states that the paragraphs numbered 1 through 21 represent assumptions upon which Licensee has based its TMI-1 Emergency Plan. ECNP provides no basis, however, to show that any of these are in fact major assumptions behind the Plan. Also, Appendix D of the Plan, which is referred to by ECNP as containing six assumptions, is actually the plan of the Commonwealth of Pennsylvania and not the Plan of Licensee.

Nevertheless, in an attempt to ascertain whether admissible contentions might be derived from paragraphs 1 through 21, the Staff has examined each paragraph, assuming that it can be rephrased as an affirmative contention. The Staff's position on these "contentions" is set forth below.

Page 4, (1)

As stated, this paragraph does not contain the elements necessary to be an emergency planning contention, namely, a link to the Emergency Plan and a basis for the assertion. Therefore, the Staff objects to its admission.

Page 4, (2)

This paragraph is vague and wholly fails to identify the inadequacies to which ECNP refers. Because of the total lack of specificity, the Staff objects to its admission.

Page 4, (3)

No basis or specificity has been provided and there exists no link to the Emergency Plan. Therefore, the Staff objects to its admission.

Page 4, (4)

This paragraph is not an admissible contention because it lacks adequate specification. As stated in an earlier pleading, challenges to the adequacy of the radius around the plant within which evacuation planning and preparedness occurs must identify specific reasons why that distance is inadequate. See NRC Staff Response to Revised Contentions, January 8, 1980, at 2-3.

Page 4, (5)

ECNP has provided no basis to support its conclusion that Licensee has, in fact, made such an assumption. Furthermore, operation of TMI-1 will not be permitted until an acceptable emergency plan has been devised. See Commission Order at 5-6 (August 9, 1979). Because this contention lacks a basis stated with reasonable particularity, the Staff objects to admission of this contention.

Page 4, (6)

If appropriately reworded to form an affirmative assertion with regard to alleged inadequacies in instrumentation to allow proper assessment of conditions for emergency response purposes, it is the Staff's view that an admissible contention can be derived from this paragraph.

Page 4, (7)

The subject of this contention falls within the general area of operator training and not emergency planning. Therefore, the Staff objects to this as an emergency planning contention.

Page 4, (8)

The subject of this contention will be covered in contentions that address the design defects of the control room and is in fact addressed in ECNP's contention 1(i). The Staff, therefore, objects to this as an emergency planning contention.

Page 4, (9)

For the reasons set forth in the Staff's response to (3), supra, which is found on pages 2-3 of ECNP's Revision, it is the Staff's view that the subject matter of this contention is not litigable.

Pages 4-5, (10)

The Staff does not object to this contention except for the reference to the transmission of information in an "open" manner. Such a reference is not

litigable for the reasons set forth in Staff's response to (3), supra at 2-3 of the Revision. ECNP must, however, resubmit this assertion in the form of an affirmative contention.

Page 5, (11)

It is the Staff's view that the reference to the transmission of information in an "open" manner is not litigable for the reasons set forth in Staff's response to (3), supra at 2-3 of the Revision. An assertion concerning the importance of timely and accurate transmissions of information by the State, if couched in appropriate language, appears to be admissible.

Page 5, (12)

The basis for this assertion, if any, is pure speculation. Therefore, the Staff objects to the admission of this paragraph as a contention.

Page 5, (13)

This paragraph does not set forth a basis with any particularity for the assertion that the Licensee assumes the public has neither the right nor the need for accurate or timely information during an emergency. The Staff therefore objects to its admission as a contention.

Page 5, (14)

No basis whatsoever is presented for the assertion that large releases of radioactive gases will occur, and the assertion of public panic is strictly speculation. The Staff, therefore, is of the view that no admissible contention is presented by this paragraph.

Page 5, (15)

This paragraph is nearly identical to item (b), supra at 3 and contention (13), supra at 5 of the Revision. The Staff's position, as set forth in response to those contentions, is equally applicable here.

Page 5, (16a.)

There is no basis given for the assertion in this paragraph that much time will elapse before the public is alerted to the fact that an accident has occurred. Therefore, the Staff objects to its admission as a contention.

Page 5, (16b.)

This paragraph constitutes an open-ended assertion because of the words, "including but not limited to." If that term were either omitted or defined, however, the Staff would not object to the admission of this contention in this proceeding.

Page 5, (16c.)

The Staff has no objection to the subject matter of this paragraph in view of the provisions in 10 C.F.R. Part 50, Appendix E, Paragraph 4(c) and in Regulatory Guide 1.101, Revision 1, entitled "Emergency Planning for Nuclear Power Plants," dated March 1977. Both of these refer to the prevention of damage to property. See NRC Staff Brief in Response to Contentions, October 31, 1979, at 20-21.

Page 5, (16d.)

The Staff does not object to the matter raised in this paragraph if appropriately rewritten as an affirmative contention.

Page 5, (16e.)

Please see Staff response to (16d.), supra at 5 of the Revision.

Page 5, (16f.)

Please see Staff response to (16d.), supra at 5 of the Revision.

Page 6, (16g.)

The Staff objects to this paragraph in its present form because ECNP has provided no basis for its assertion and has failed to specify how the amount of cash possessed by evacuees has any bearing on the adequacy of the Emergency Plan to provide for their protection in the event of an accident at TMI.

Page 6, (17)

If rephrased to set forth an affirmative contention, it is the opinion of the Staff that this paragraph, which is comprised of four parts, would constitute an acceptable contention.

Page 6, (18)

Please refer to the Staff's answer to (17), supra at 6 of the Revision.

Page 6, (19)

The Staff objects to the assertion in this paragraph on the ground that it is totally without basis and, in fact, is nothing more than speculation.

Page 6, (20)

Please see Staff response to (19), supra at 6 of the Revision.

Page 6, (21)

Please see Staff response to (19), supra at 6 of the Revision.

Page 7, (1)

The Staff has no objection to this contention.

Page 7, (2)

The Staff understands this paragraph as attempting to establish a lack of coordination between the Emergency Plan proposed by Licensee and those of the five counties surrounding TMI for accidents arising at the same nuclear power plant. With this understanding, the Staff does not object to admission of this paragraph as a contention.

Page 7, (3)

ECNP has not provided a litigable issue in this contention. See Staff's response to (3), supra at 2-3 of ECNP's Revision.

Page 7, (4)

The Staff does not object to this contention.

Page 7, (5)

The Staff objects to this contention because the second sentence appears to be a baseless assertion. Moreover, this contention falls within the ambit of the management competence issue.

Page 7, (6)

The Staff recognizes that this contention lacks a certain degree of specificity, but because the defects of this contention could be cured through the process of discovery, the Staff has no objection to admission of this contention at this time.

Page 8, (7)

The first sentence of this contention is argumentative, does not present a concrete issue, and is not litigable for the reasons specified in the Staff's response to (3), supra at 2-3 of the Revision. Moreover, ECNP provides no basis for its statement in the second sentence. If ECNP appropriately reworded the assertion in the second and third sentences and provided an adequate basis, the Staff would have no objection to admission of this contention.

Page 8, (8)

The Staff has no objection to this contention.

Page 8, (9)

The Staff has no objection to this contention.

Page 8, (10)

ECNP's contention appears to be based upon a misunderstanding of the term "built-in conservatism" and therefore lacks meaning and viability as a contention.

Page 8, (11)

The Staff objects to this contention because it appears to address on-site radioactive gas monitoring, which is not an emergency response issue.

Page 8, (12)

The Staff does not object to that part of the contention which addresses total dose exposure. As for the remainder of the contention, the Staff objects on the same basis as that set forth in response to items (b) and (c) in the last paragraph, supra at 3 and paragraph (13), supra at 5 of the Revision.

Page 9, (13)

The Staff has no objection to this contention.

Page 9, (14)

There is no contention numbered 14.

Page 9, (15)

The first sentence of this contention is vague due to the clause "including but not limited to." Part (a) is also vague as well as lacking in basis. Part (b) lacks specifics in that it refers to "all operations, equipment, etc." Part (c) lacks a basis. For these reasons, the Staff objects to this contention in its entirety.

Page 9, (16)

The Staff objects to this contention because the basis presented is wholly lacking the required particularity to alert the parties as to what they must support or defend against.

Page 9, (17)

The Staff objects to this contention because it lacks a basis stated with reasonable specificity.

Pages 9-10, (18)

Although otherwise acceptable, this contention contains two assertions without a basis: (1) that TID-14844 is out of date and must be updated and (2) that loss of containment integrity implies a previous loss of other engineered safeguards. Until ECNP supplies the bases required under Section 2.714(b), the Staff will object to admission of this contention as an issue in this proceeding.

Page 10, (19)

The Staff has addressed the subject matter of this contention in ECNP's (7), supra at 4 of the Revision and objects to this contention for the same reasons.

Page 10, (20)

The Staff has no objection to this contention.

Page 10, (21)

ECNP has provided no basis to support this contention. In addition, there is no apparent manner in which it can be proved or disproved that drills will actually result in "real emergency preparedness." Consequently, this contention does not present a concrete, litigable issue. For this reason, the Staff objects to this contention.

Page 10, (22)

The litigable parts of this contention, which concern timely dissemination of accurate information to the public during an accident, have been addressed by the Staff in (b) and (c), supra at 3 and (13), supra at 5 of the Revision. The Staff objects to admission of those parts of this contention on the grounds that they are adequately encompassed in the previous referenced contentions. Moreover, ECNP has provided no basis for its assertion that "a single company voice" will impede the timely flow of accurate information.

Pages 10-11, (23)

The Staff has no objection to this contention.

Page 11, (24)

The Staff has no objection to this contention inasmuch as it addresses direct communication by the public with the Licensee. The Staff objects, however, to the remainder of the contention because the assertions are vague, non-specific and lacking in basis.

Page 11, (25)

This contention is vague and wholly lacking in basis. Consequently, it is, in the Staff's view, inadmissible.

Page 11, (26)

The Staff has no objection to this contention.

Page 11, (27)

The Staff objects to this contention because a basis for its assertion has not been stated with a reasonable degree of specificity.

Page 11, (28)

The Staff has no objection to this contention.

Page 11, (29)

The Staff objects to this contention as outside the scope of the issue of emergency planning.

Page 11, (30)

The Staff has no objection to this contention if consolidated with (20), supra at 10 of the Revision.

Page 12, (31)

The Staff objects to this assertion because ECNP has not provided a basis for its statement that "Appendix D assumes that in the event of another accident at TMI, a trade-off is to be made between some alleged social disruption due to evacuation and population exposure mitigation." The contention is also argumentative and appears to present no concrete, litigable issue.

Page 12, (32)

The Staff does not object to this contention.

Page 12, (33)

The Staff reads the words "inhalation exposure" in the last sentence as referring to inhalation exposure from a plume of radioactive gas. In view of this understanding, the Staff does not object to this contention.

Page 12, (34)

The Staff objects to this contention as lacking a basis for its assertion that the dose conversion factors in Regulatory Guide 1.109 are improper. Moreover, the contention in general lacks specificity.

Page 12, (35)

This paragraph states two "bases," yet fails to constitute a contention. The Staff therefore objects to its admission.

Page 12, (36)

Except for the assertion contained in the last sentence with regard to political pressure, the Staff has no objection to this contention. As for the last sentence, the Staff objects because ECNP has provided no basis for that assertion.

Page 12, (37)

This paragraph appears to be another example of, and a further statement of a basis for, the assertion contained in (26), supra at 11 of the Revision. The Staff therefore recommends that this paragraph be consolidated with contention (26).

Page 12, (38)

The Staff has no objection to this contention.

IV. Conclusion.

ECNP has neglected to make the necessary showings to the Board under 10 C.F.R. §2.714(a) to justify the late filing of its revised emergency planning contentions. Ordinarily such total neglect should result in rejection of the contentions. Nevertheless, in order to ensure the development of a complete record on the emergency planning issue, the Staff suggests that the Board allow ECNP to litigate those contentions not raised by any of the other parties.

Respectfully submitted,

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Dated at Bethesda, Maryland,
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