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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:
SOUTH CAROLINA
ELECTRIC & GAS COMPANY
et al. (Virgil C. Summer
Nuclear Station, Unit 1)

)
) Docket No. 50-395 OL
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APPLICANTS' REPLY TO "INTERVENOR'S
MOTION TO REOPEN THE RECORD
ON EMERGENCY CONTENTION"



Applicants, in accordance with in 10 C.F.R. §
2.730(c), submit the following reply to "Intervenor's
Motion to Reopen the Record on Emergency Contention."

BACKGROUND

Intervenor, in his motion to reopen the record dated
December 8, 1981, contends that the Applicants' methodology
for testing the siren system is "surprisingly inadequate."
He asserts (incorrectly as discussed below) that the Appli-
cants have no plans to test the entire system and moves the
Board to instruct the Applicant to conduct such a test.
Intervenor also contends that in the event the sirens should
fail to operate, the alternate means for notifying the
public would prove inadequate.

Applicants reassert that the issue of arrangements
with local officials concerning testing of the sirens is

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beyond the scope of Intervenor's Contention A8 on emergency planning 1/ and, therefore, are not before the Board. (Tr. 4674). Applicants contend that Intervenor's belated attempt to litigate an issue premised on some substantial probability of failure of the public alerting system is without support in the record. At no time during the evidentiary hearings on emergency planning did the intervenor offer evidence as to the probability of failure of the sirens. The backup notification system assuming unavailability of the sirens is well documented in the record.

Applicants' acoustic alerting (siren) system is designed to meet the requirements of Appendix III to NUREG 0654. (now NRC Reg. Guide 1.01, Rev. 2) (See Applicants' Proposed Findings, dated 10/26/81, para. 75). FEMA witness Jack B. Richardson stated he believed the siren system, once installed, would be capable of notifying the public. (Tr. 3294) When the record on emergency planning was closed September 24, 1981, the Board was advised that installation of the system was approximately seventy-five percent complete. (Tr. 4676-77). At that time the Applicants informed the

1/ That contention was as follows:

"The Applicant has made inadequate preparations for the implementation of his emergency plan in those areas where the assistance and cooperation of state and local agencies are required."

Board that testing of the system was scheduled for around December 1, 1981. (Tr. 4677). Subsequently, the Board and parties were notified that testing would not be completed in December 1981. (Letter from T.C. Nichols, Jr. to B.K. Grimes, dated 11/24/81). Intervenor had moved that the record be left open pending testing of the system, but such motion was not granted and the record was closed. (Tr. 4675, 4677). Such testing has begun on a sector by sector basis. (See attached Affidavit of K. E. Beale, dated December 17, 1981, hereafter referred to as Beale Affidavit). The Applicants plan to conduct a full test of the complete system on January 30, 1982. (Beale Affidavit, p. 2).

Intervenor also contends that information received since closing of the record from Richland County Sheriff Frank Powell (See Applicants' Motion to Strike, dated 12/1/81) "directly contradicts" the testimony of Applicants witness Kenneth E. Beale regarding alternate means of public notification. (See Applicants' Proposed Findings, dated 10/26/81, para. 75). Mr. Beale's testimony is not contradictory to the alleged statements of Sheriff Powell alluded to in Intervenor's proposed findings on emergency planning but rather is consistent therewith. State and local plans for backup notification of the public do not rely solely on local Sheriff's departments; such are only one resource available to provide notification in the event the siren system fails. In addition to local Sheriff's

departments, the state highway patrol, local fire departments, community organizations, and national guard units, if necessary, would be called to provide backup notification. (See Applicants' Proposed Findings, dated 10/26/81, para. 18, 25, 27, 31, 73-79, 85).

ARGUMENT

Applicants contend that the issues raised in "Intervenor's Motion to Reopen the Record on Emergency Contention" are beyond the scope of Intervenor's original Contention A8 and, therefore, are not before the Board. Further, Applicants contend that the issue raised by the Intervenor concerning testing of the siren system is moot inasmuch as the relief he seeks is an all-siren test and the Applicant has scheduled such a test for January 30, 1982. Finally, Applicant contends that Intervenor has failed to satisfy the requirements for reopening the record on emergency planning. 2/ At the

2/ The Licensing Board has the discretion to reopen the record to consider new evidence. Its decision depends on appraisal of three factors: 1) Is the motion timely? 2) Does it address significant safety (or environmental) issues? 3) Might a different result have been reached had the newly proffered material been considered initially? In the Matter of Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-598 11 NRC 876 (June 24, 1980); In the Matter of Kansas City Gas & Electric Co., et al. (Wolf Creek Generating Station, Unit No. 1), ALAB-462, 7 NRC 320, 338 (1978); In the Matter of Vermont Yankee Nuclear Power Corp. (Vermont Yankee Nuclear Power Station), ALAB-138, 6 AEC 520, 523 (1973).

close of the record, the Applicant was committed to testing the siren system once fully installed. Installation of the sirens is complete. (Beale Affidavit). Testing has begun and full scale testing will be conducted pursuant to this commitment. The statements of Sheriff Powell, concerning alternate means of notification, do not contradict testimony in the record nor would they materially add to it; to the extent such statements would tend to show that notification by a single agency would likely take longer to complete than notification employing the resources of several agencies, it adds nothing to the record and would not lead to a different result.

The proponent of a motion to reopen the record has a heavy burden. 3/ Applicants assert that Intervenor has failed to carry this burden. Not only must the motion both be timely raised and address a significant safety (or environmental) issue, it must also establish that a different result would be reached if the material submitted in support of the motion had been considered. 4/ Considering the motion in light of these requirements, Intervenor has failed

3/ Wolf Creek Generating Station, Unit No. 1, supra at 338; In the Matter of Duke Power Company (Catawba Nuclear Station, Units 1 and 2), ALAB-359, 4 NRC 619, 620 (1976).


4/ Wolf Creek Generating Station, Unit No. 1, supra at 338; In the Matter of Northern Indiana Public Service Company (Bailly Generating Station, Nuclear -1), ALAB-227, 8 AEC 416, 418 (1974); see Diablo Canyon Nuclear Power Plant, Units 1 & 2, supra; Vermont Yankee Nuclear Power Station, supra at 523.

to satisfy the third factor - that a different result might be reached had the new material been considered. The status quo has not altered since the emergency planning record was closed on September 24, 1981. Installation of the sirens is complete and testing is proceeding. The record does not support Intervenor's supposition that the Applicants or the state and local emergency agencies would call upon only a single resource to provide backup public notification in the event the siren system should fail to operate.

Conclusion

Accordingly, for all of the foregoing reasons, the Board should deny Intervenor's motion to reopen the record on emergency planning.

Respectfully submitted,



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