

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Sheldon J. Wolfe, Chairman
Dr. Walter H. Jordan
Dr. Harry Foreman

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In the Matter of

LOUISIANA POWER AND LIGHT COMPANY,

(Waterford Steam Electric Station,
Unit 3)

SERVED AUG 18 1982

Docket No. 50-382-OL

August 17, 1982

MEMORANDUM AND ORDER^{*/}

(Reopening The Record-Requesting Submissions)

MEMORANDUM

The Board has reviewed the record with respect to Joint Intervenor's Contention 17/26(1)(a). The record indicates that the pre-emergency public information program as applied to residents will consist of brochures to be distributed to the public. However, the brochure was not submitted as evidence at the hearing, nor had it been reviewed by either the NRC Staff or FEMA. Without more, this Board would have to proceed solely on the basis of Applicant's witnesses' description of the proposed brochure (i.e., an iteration of the requirements of the regulations), and on the basis of the NRC Staff's and FEMA's assurance of a subsequent review.

^{*/} In order to alert the parties and thereby enable them to timely file their submissions, during a conference call today, the Board read the contents of this Memorandum and Order to Representatives of the parties, including the Federal Emergency Management Agency.

We do not consider the pre-emergency public information program to be minor or insignificant. In Southern California Edison Company (San Onofre), LBP-82-39, Slip Op. at 52 (May 14, 1982), the Licensing Board noted, "In the absence of an adequate education program, the public response could be chaotic.... The premise is that a public education and information program, in place and functional before an emergency, will minimize the risk to the public in the event of an emergency." In addition, the form and content of informational brochures are not so clearly established by the regulations that compliance with the regulations is a matter of course. In Cincinnati, Gas & Electric Co. (Zimmer), LBP-82-48, Slip Op. at 86 (June 21, 1982), the Licensing Board noted that as a result of Intervenor's criticism, the informational brochure in that case had been redrafted to be readable to the average reader. The Board also found there to be informational deficiencies in the brochure (Id. at 38-39, 86). Similarly, in Consumers Power Company (Big Rock Point), LBP-82-60, Slip Op. at 7 (July 26, 1982), the Licensing Board found that an information pamphlet down played the effects of an accident and might discourage evacuation. The Board also found part of the pamphlet was misleading (Id. at 10-11).

Do Applicant's promise of compliance and the NRC Staff's and FEMA's subsequent review constitute "reasonable assurance" that this part of the emergency plan will be properly implemented? We conclude that they do not. In the first place, upon such an important matter,

we must see and evaluate the provisions of the brochure. Pacific Gas and Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), ALAB-580, 11 NRC 227 (1980). Moreover, a "reasonable assurance" determination requires more than a mere checklist comparison against regulatory criteria. Southern California Edison Company (San Onofre), LBP-81-36, 14 NRC 691, 699 (1981). The term "reasonable assurance" connotes the existence of a "reasonable plan." Public Service Company of New Hampshire, CLI-78-1, 7 NRC 1, 18 (1978). The reasonableness of a plan cannot be determined when the essential elements of the plan are indeterminate.

We feel the resolution of the contention is not straightforward and simple. It is a significant issue that calls for subjective evaluation. We must read and evaluate the brochure--we cannot delegate that decision to others.

ORDER

In light of the foregoing discussion and pursuant to 10 C.F.R. § 2.718(j), it is this 17th day of August 1982

ORDERED

1. The record is reopened.
2. Applicant shall assign, as soon as possible, an exhibit number to the brochure, shall serve true copies on all parties and on the Board, and shall serve three additional true copies on the Board.
3. By September 1, 1982, the Staff and FEMA will review and file comments or reports with respect to the adequacy of Applicant's brochure.

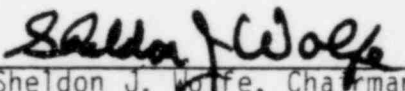
4. By September 15, 1982, the Joint Intervenors shall submit their comments upon the adequacy of the brochure, inclusive of any recommended additions or modifications.

5. By September 24, 1982, Applicant shall file its comments replying to those filed by the other parties.

6. After receipt of the proposed exhibit and the comments or reports, the Board will determine whether the record has been reopened only to admit into evidence as exhibits the brochure and the comments or reports or, in addition, whether cross-examination will be necessary. In order to assist the Board, at the times (see paragraphs 3, 4, and 5 above) they submit their comments or reports, Staff, FEMA, the Applicant and the Joint Intervenors should recommend which procedure the Board should follow.

Judges Foreman and Jordan concur but were unavailable to sign the instant issuance.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Sheldon J. Wolfe, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 17th day of August, 1982.