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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 ) Docket No. 50-155-OLA  
CONSUMERS POWER COMPANY ) (Spent Fuel Pool  
 ) Modification)  
(Big Rock Point Nuclear Power )  
Plant) )

CONSUMERS POWER COMPANY'S REPLY TO  
INTERVENORS PROPOSED FINDINGS ON  
CHRISTA-MARIA 9(4), 9(5) AND PART OF 9(2)

Consumers Power Company ("Licensee") and the NRC Staff filed findings of fact and conclusions of law on July 30, 1982 with respect to O'Neill Contention II G(a) and Christa-Maria Subcontentions 9(4), 9(5) and 9(7).<sup>1/</sup> Intervenor Christa-Maria, et al. ("Intervenors") filed such findings only with respect to Subcontentions 9(4) and 9(5).<sup>2/</sup> Under the schedule approved by the Atomic Safety and Licensing Board ("Licensing Board"), replies may be filed within 20

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<sup>1/</sup> Licensee also filed findings on that portion of Subcontention 9(2) concerning education of the public, local officials and school officials in radiation matters. The other parties had previously filed such findings in connection with the emergency planning pamphlet contentions.

<sup>2/</sup> Intervenors' pleading purports to address Subcontention 9(7) but no specific findings or discussion addressing this Subcontention are set forth. Licensee assumes that Intervenors' failure to file such findings means they have conceded Subcontention 9(7), as well as their position on O'Neill Contention IIG(a) since they have otherwise been diligent in filing such pleadings. In any event, Intervenors should be considered in default on these issues (10 C.F.R. §2.754(b)), and a decision favorable to Licensee should issue.

days following service of affirmative findings, in this instance, by August 19, 1982. Licensee hereby submits its reply to Intervenors' findings of fact and conclusions of law concerning Subcontentions 9(4) and 9(5) and the second sentence of Subcontention 9(2).

Intervenors argue that Licensee's application for a license amendment to expand the capacity of the Big Rock Point spent fuel pool should be denied because adequate provision has not been made for (i) identifying invalids who might need assistance during an evacuation of the 5 mile plume exposure emergency planning zone ("EPZ"), (ii) transporting invalids and school children out of the EPZ, and (iii) training bus drivers and other emergency personnel in the problems of radiation exposure.<sup>3/</sup> Intervenors' position is without merit.

A current list of invalids within the five-mile EPZ is maintained by the Sheriff for Charlevoix County with the assistance of the Emergency Services Directors for Charlevoix and Emmet Counties. This list is comprised of 40 persons in Charlevoix County who responded to a local news article published in April, 1980. A similar article was published in May, 1982 but as yet there has been no

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<sup>3/</sup> Intervenors' "Proposed Findings of Fact and Conclusions of Law on Christa-Maria Contentions 9(4), 9(5) and 9(7)," pp. 3-5; and Intervenors' "Proposed Findings of Fact and Conclusions of Law on Christa-Maria Contentions 9(2) and 9(3)," dated July 2, 1982, ¶'s 17-18.

additional response. (Tr. 834-35, 1473, 1495). Further, it is known through cooperation with the Emmet County Department of Social services that no invalids live in Emmet County within the five-mile emergency planning zone though at least five invalids in Emmet County that live within ten miles of the Big Rock Plant are known. (Tr. 1479).

The record shows that adequate provisions exist for transporting invalids, school children, hospital patients and anyone else who may require transportation. Current planning calls for the use of buses for evacuation of invalids and school children. Mr. Bement confirmed that arrangements for the availability of buses had been made. (Bement Testimony, p. 7; Tr. 951). A total of 24 school buses, 2 vans, and 3 small buses are available to carry out emergency evacuation of invalids and school children. Nineteen of the school buses and the two vans are made available by the Charlevoix School District and are to be used first for the evacuation of school children. The nineteen school buses are equipped with citizens band radios. (Tr. 951). The plan calls for those buses to be met by buses from East Jordan High School (not counted in the above total), to transfer the students to the East Jordan High School buses, and then for the Charlevoix School District buses to turn around to evacuate invalids and anyone else with a transportation need. (Tr. 950, 1482-1483). Mr.

Bement of the Federal Emergency Management Agency ("FEMA") testified that, in a worst case, the nineteen Charlevoix School buses would be able to carry out their primary obligation of evacuating school children and then be available for other evacuation in three hours. (Tr. 1484-85).<sup>4/</sup>

Two full size school buses and three small buses (two of which have wheelchair lifts) are available from the Charlevoix Commission on Aging on an immediate basis for evacuation of invalids. (Tr. 1480, 1487). The three remaining buses are from the Missionary Church in East Jordan and are also available for evacuation on an immediate basis. (Tr. 1486). Each full size school bus can accommodate 50 to 60 people. (Tr. 1488). Thus, there is ample bus capacity to carry out the evacuation of invalids and persons needing transportation assistance. The buses from the Charlevoix Commission on Aging alone would suffice to transport the 40 invalids and those buses are immediately available. The remaining buses could well accommodate hundreds of people if required.

The evacuation plan provides that buses are to go to the parking lot of the Charlevoix County Sheriff's Department where the Emergency Operations Center is located.

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<sup>4/</sup> Intervenors' contrary characterization of Mr. Bement's testimony (Intervenors Proposed Findings, p. 2, No. 4) is not supported by the record.

There the bus drivers will receive instructions with regard to picking up persons. (Tr. 1491-92). There is confidence that bus drivers would be available if the situation called for them. (Tr. 954). Further, it is reasonable to assume that the bus drivers are familiar with the routes in their community and will be able to implement the evacuation. (Tr. 1489). Nothing in the record indicates that bus drivers could not fulfill their duties. Intervenors assertion that frightened bus drivers would refuse to assist in the evacuation or fail to handle invalids with care is speculation.

Mr. Bement also verified that the hospital in Charlevoix has an evacuation plan. The hospital's plan includes use of ambulances to transport intensive care patients to designated hospitals outside the emergency planning zone. (Tr. 965). The remaining patients could be moved by bus. (Tr. 967).

The adequacy of the hearing record with respect to the training of the public, local officials and school officials in radiation matters was fully set out in Licensee's proposed findings,<sup>5/</sup> and it is unnecessary to restate that position here. In sum, Intervenors' Contentions are without merit and they should be rejected.

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<sup>5/</sup> "Consumers Power Company's Proposed Opinion on the Administrative Controls Contention (O'Neill IIG(a)) and Certain Emergency Planning Subcontentions (Christa-Maria 9(4), 9(5), 9(7), and part of 9(2))", filed July 30, 1982.

Intervenors argue, as an alternative to denial of the license amendment application, that the amendment should be conditioned in the following respects:

- a) require Licensee to train or assist in the training of bus drivers. This training should be mandatory for drivers and should cover both emergency procedures and the handling of invalids;
- b) a phone number should be assigned to the emergency operations center and be published in the next pamphlet;
- c) there should be some method of informing temporarily disabled persons of enrollment, such as through bulletins to local doctors and health care agencies;
- d) a determination must be made as to the number of people needing transportation for evacuation...;
- e) Licensee should assist the local area meeting these conditions;6/ [and]

Licensee [should be required] to conduct regular training of emergency teams and public and school officials, to verify that such training actually takes place and to submit a detailed statement for staff approval of the training schedule, content of training programs and methods of record keeping and verification of training.7/

The merit of these proposed conditions should be considered within the legal framework established for emergency planning,

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6/ Intervenors' "Proposed Findings of Fact and Conclusions of Law on Christa-Maria Contentions 9(4), 9(5) and 9(7)," dated July 29, 1982, p. 5.

7/ Intervenors' "Proposed Findings of Fact and Conclusions of Law on Christa-Maria Contentions 9(2) and 9(3)," dated July 2, 1982, ¶ 18.

and a restatement of that framework is appropriate.

The relevant regulations and the staff guidance document are portions of 10 C.F.R. Part 50 and NUREG-0654. Section 50.54(q) applies the emergency planning regulations, including section 50.47(b) and Appendix E to Part 50, to operating reactors.<sup>8/</sup> Subsections 50.47(b)(8), (10) and (15) and section F. of Appendix E are relevant to a consideration of subcontentions 9(4), 9(5) and the second sentence of 9(2). These regulations, inter alia, impose an obligation to provide, in offsite emergency response plans, for adequate emergency facilities and equipment to support the predetermined protective actions and responses triggered during an emergency, and for adequate radiological training to those who may be called on to assist during an emergency.

The general requirements of these regulations are fleshed out in the guidelines set forth in NUREG-0654. In particular, State and local governments are responsible for establishing the capability for implementing protective actions, such as evacuation. Moreover, State and local governments must establish means for protecting persons whose mobility may be impaired because of institutional or other confinement. Finally these governmental units must

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<sup>8/</sup> Licensing Board's August 6, 1982 Initial Decision concerning the emergency planning pamphlet, slip op. p. 2.

also provide means for relocating persons with impaired mobility or those who have no ready means of transportation. (NUREG-0654, pp. 61 and 63, Section II, items J.9. and J.10.d. and g.)

Section F. of Appendix E provides, among other things, that:

[a] radiological orientation training program shall be made available to local services personnel, e.g., local Civil Defense, local law enforcement personnel, and local news media persons.

Nevertheless, NUREG-0654 makes clear that state and local governments are responsible for establishing a radiological emergency response training program for their respective personnel. There is recognition, however, that should such governments lack sufficient capability and resources, they may call upon licensees and the Federal government to provide assistance. (NUREG-0654, pp. 75-77, II, item O.)

Intervenors seek, by their proposed conditions, to vitiate the framework of shared responsibility established by these regulations and guidelines by simply requiring, in the respects noted above, the Licensee to assume the responsibility for evacuation of the EPZ, and to train the various state and local government personnel involved in emergency responses activities. Good reason should exist before state and local plans for evacuation and direction by state local governments in the training of their personnel



is cast aside for that provided by the Licensee. Such a result would be counter to the strong policy for shared responsibility and the development of integrated emergency plans espoused by the NRC and the Federal Emergency Management Agency. Intervenors' proposed conditions are counter to this policy, and for this reason and the reasons discussed below, they should be rejected.

Intervenors first suggested license condition states:

require Licensee to train or assist in the training of bus drivers. This training should be mandatory for drivers and should cover both emergency procedures and the handling of invalids.

Licensee already offers training to bus drivers. Five bus drivers attended an emergency procedures class in May, 1981 which included a discussion of radiation. (Axtell Testimony, pp. 5-6). Intervenors suggest that training by Licensee should be mandatory. Such a condition is beyond the authority of the Licensing Board to impose. Training bus drivers with respect to emergency planning matters is a function of their employers, viz., school districts and other local governmental units. The Licensing Board is without jurisdiction to impose such a condition.

A second suggested condition states:

a phone number should be assigned to the emergency operations center and be published in the next pamphlet.

The Emergency Operations Center in Charlevoix has a bank of phone lines which will be used in an emergency to assist persons who need evacuation transportation or other aid. (Tr. 894-96). Intervenors' suggested condition that an assigned number for emergency phone lines be published in the public information pamphlet is not necessary. The new pamphlet already advises in two places how emergency assistance information can be attained, including a telephone number for individual problems. Under the section captioned "What if I need transportation?", persons needing a ride are advised to stay inside their home and listen to radio, television or public address. (Consumers Power Company Exhibit No. 5, p. 8). A section of the pamphlet captioned "How would I be informed?" lists radio and television stations which will provide emergency information and advises:

Specially designated telephone numbers where you may call with individual problems or questions would be broadcast over your radio or television.

(Consumers Power Company Exhibit No. 5, p. 11). Thus, the public information pamphlet advises an individual with a transportation need how to find out the number to call for needed assistance. This information in the new pamphlet is adequate to meet the Intervenors' concern.<sup>9/</sup>

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<sup>9/</sup> Intervenors make the assertion that there is a sizeable population of Native Americans in the emergency planning zone without radios or television. There is absolutely nothing in the record to support this assertion.

Another suggested license condition states:

there should be some method of informing temporarily disabled persons of enrollment such as through bulletins to local doctors and health care agencies.

Such a requirement is unnecessary. As indicated previously, the Charlevoix Hospital already has an evacuation plan for evacuation of patients in that facility (supra, p. 5). Temporary invalids at home will have access to information in the pamphlet which directs them to listen to the media for information on how to attain assistance, specifically through the emergency phone number.

A fourth suggested license condition states:

a determination must be made as to the number of people needing transportation for evacuation...; and

The purpose of such a determination would be to assure adequate evacuation planning of invalids and other persons needing transporting assistance. This concern has already been met. The Sheriff for Charlevoix County maintains a list of the invalids in the EPZ. (Tr. 934-35). It is reasonable to assume that hospitals are aware of the number of patients staying in their facility. It is also reasonable to assume that the Charlevoix School District knows the number of children in its schools. Other persons needing transportation assistance are advised by the pamphlet to listen to the media for assistance information. No useful

purpose would be served by requiring Licensee to make an independent determination of the number of persons needing transportation in an evacuation.

A fifth license condition suggested by Intervenors states:

Licensee should assist the local area in meeting these conditions.

For reasons explained above, the suggested conditions are without merit since their concerns are met through existing provisions and considerations. Therefore, Licensee should not be required to assist in meeting those conditions.

A condition suggested by Intervenors regarding the second sentence of Christa-Maria Subcontention 9(2) states:

Licensee [should be required] to conduct regular training of emergency teams and public and school officials, to verify that such training actually takes place and to submit a detailed statement for staff approval of the training schedule, content of training programs and methods of record keeping and verification of training.

For reasons which were stated in Licensee's proposed findings (supra, p. 5, fn. 5), this suggested condition of Intervenors is misdirected. The State of Michigan has assumed responsibility for training local officials in their respective emergency planning duties. The State's Emergency Plan provides comprehensive direction to State and local officials with respect to the policy and nature of radiological emergency training. (Axtell Testimony

p. 4 and Attachment 1). Nothing in the record establishes any inadequacy of the State's training program. FEMA's finding that local governmental and school officials are trained in radiological matters through various activities was largely uncontroverted. (Bement Testimony, p. 4).

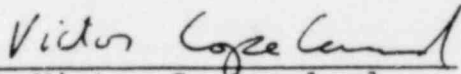
The assistance offered by Licensee to the State's program of educating local officials and emergency personnel is supplemental to that program. Intervenors misperceive Licensee to be primarily responsible for this training. The suggested license condition should not be imposed.

#### CONCLUSION

For the reasons stated herein and in "Consumers Power Company's Proposed Opinion on the Administrative Controls Contention (O'Neill IIG(a)) and Certain Emergency Planning Subcontentions (Christa-Maria 9(4), 9(5), 9(7), and part of 9(2))", dated July 30, 1982, Christa-Maria Contentions 9(4), 9(5), 9(7) and that part of 9(2) considered here, and O'Neill Contention IIG(a) are without merit and the proposed conditions should be rejected.

Respectfully submitted,

  
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