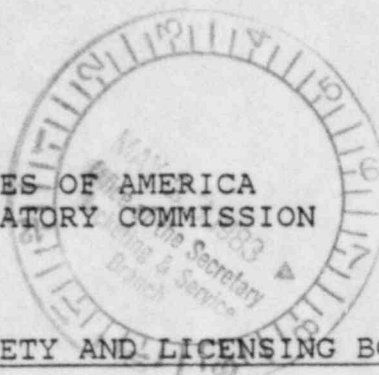


May 20, 1983

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
UNION ELECTRIC COMPANY)	Docket No. STN 50-483 OL
)	
(Callaway Plant, Unit 1))	

APPLICANT'S MOTION FOR SUMMARY DISPOSITION
OF REED CONTENTION 13
(ORGANIZATIONS REQUIRING SOPs)

Pursuant to 10 C.F.R. § 2.749, Union Electric Company ("Applicant") moves the Atomic Safety and Licensing Board for summary disposition of Contention 13 advanced by intervenor John G. Reed. As shown below, summary disposition is appropriate because there is no genuine issue of material fact to be heard with respect to Contention 13. Accordingly, Applicant is entitled to a decision in its favor on Contention 13 as a matter of law.

This Motion is supported by Applicant's Statement of Material Facts On Reed Contention 13 As To Which There Is No Genuine Issue To Be Heard (Organizations Requiring SOPs),

Applicant's Memorandum of Law In Support Of Motion For Summary Disposition On Emergency Planning Issues ("Memorandum of Law"), the Callaway County/Fulton Radiological Emergency Response Plan ("Callaway/Fulton Plan"), the Montgomery County Radiological Emergency Response Plan ("Montgomery Plan"), the Osage County Radiological Emergency Response Plan ("Osage Plan"), the Gasconade County Radiological Emergency Response Plan ("Gasconade Plan"), the Affidavit of John W. Baer on Reed Contention 13 (Organizations Requiring SOPs) ("Baer-13"), and the Affidavit of John W. Baer on Reed Contention 4 (Emergency Action Level Scheme/Worker Notification) ("Baer-4") all filed simultaneously herewith, as well as the pleadings and other papers filed by the parties in the proceeding.

I. Procedural Background

Reed Contention 13 states:

Each organization and suborganization (as defined in Appendix 5, NUREG 0654) having an operational role in the emergency response efforts have not specified their individual concept of operations and its relation to the total effort as required in NUREG 0654, II, Alb.

A. The absence of SOPs of county agencies, that have been assigned a role in the response plan, as stipulated in the proposed Offsite plan (see Offsite Plan, page 1-3, D.1. and page 1-4, D.2.) validate this fact.

B. Failure to include SOPs of the cities/towns/villages of Mokane (Callaway County), Chamois (Osage County), Morrison and Gasconade (Gasconade County), and Rhineland (Montgomery County) indicating how they will function in a radiological

emergency response effort or what the relationship of their efforts are to the total effort is verified by the lack of SOPs or other documentation in proposed plans/SOPs.

C. Absence of documentation/SOPs of hospitals, ambulance districts, volunteer fire departments, bus companies, trucking companies, and school districts named in individual county SOPs (proposed SOPs) will confirm this fact.

Final Particularization of Reed's Amended Contentions 1, 2 and 3, filed October 1, 1982. The NRC Staff objected to the admission of Contention 13.B; however, the Staff's objection was overruled by Memorandum and Board Order dated December 7, 1982. See NRC Staff's October 25, 1982 Response to Final Particularization of Reed's Amended Contentions 1, 2 and 3 Dated October 1, 1983.

In discovery, Applicant asked Mr. Reed to explain why the concept of operations and responsibilities for each organization specified in the former single offsite plan for the four counties was insufficient. Applicant's Revised Interrogatories and Requests for Production of Documents of Intervenor John G. Reed, October 20, 1982, Interrogatory 65. Mr. Reed simply referred Applicant to the insufficiencies cited in his contention. John G. Reed's Responses to Applicant's Revised Interrogatories, November 12, 1982, at 12.

II. Governing Legal Standards

The NRC's emergency planning regulation, 10 C.F.R. § 50.47, does not specify the need for implementing (or standard operating) procedures. However, emergency plans must be "capable of being implemented." 10 C.F.R. § 50.47(a)(2). In Contention 13, Mr. Reed relies upon the evaluation criterion that "[e]ach organization and suborganization having an operational role shall specify its concept of operations, and its relationship to the total effort," which is set forth as guidance in Section II.A.1.b of NUREG-0654/FEMA-REP-1 (Rev. 1), "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants," (Nov. 1980) ("NUREG-0654").^{1/} However, this criterion does not appear to be directed at the need for implementing procedures. Rather, within specific functional subject areas of NUREG-0654, the need for particular implementing procedures is specified. See, e.g., NUREG-0654, Section II.E.1.

The Federal Emergency Management Agency ("FEMA") is responsible for reviewing the adequacy of off-site emergency plans and their capability of implementation. 10 C.F.R.

^{1/} NUREG-0654 is a guidance document; it is not binding on the Commission. Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), LBP-81-59, 14 N.R.C. 1211, 1460 (1981), aff'd, ALAB-698, 16 N.R.C. ____, slip op. at 13-15 (Oct. 22, 1982).

§ 50.47(a)(2); 47 Fed. Reg. 36386 at 36387, 36389 (Aug. 19, 1982) (FEMA Proposed Rule on Review and Approval of State and Local Radiological Emergency Plans and Preparedness, 44 C.F.R. Part 350). FEMA's review of the off-site plans includes both a detailed review of the written plans and an assessment of the required emergency planning exercise designed to ensure that the plans are adequate and capable of being implemented. 47 Fed. Reg. at 36391. The NRC does not require that this exercise take place until a licensed facility is ready to exceed 5% of its rated power. 10 C.F.R. § 50.47(d). The exercise is part of the preoperational inspection; it is not required for a licensing board decision. Southern California Edison Company, et al. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 N.R.C. ____, slip op. at 65 (March 4, 1983), citing 47 Fed. Reg. 30232-33. Thus, while the licensing board must have confidence that the "essential elements of advance planning have been considered," 10 C.F.R. Part 50, Appendix E, Section III, and that the state of emergency preparedness provides "reasonable assurance that adequate protective measures can and will be taken," 10 C.F.R. § 50.47(a)(1), this conclusion may be a predictive one. San Onofre, supra, at 65-66 and n.57; Cincinnati Gas & Electric Company, et al. (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB-727, 17 N.R.C. ____, slip op. at 15 (May 2, 1983); see generally Memorandum of Law at 5-8.

III. Argument

The standards governing summary disposition motions in an NRC proceeding are set forth in Applicant's Memorandum of Law. In summary, where, as here, a properly supported motion for summary disposition is made, the party opposing the motion must come forward with substantial facts establishing that a genuine issue of fact remains to be heard. In the absence of such a showing, the movant is entitled to a decision in its favor on that contention as a matter of law.

Applying the foregoing standards to this case, it is clear that Applicant's motion for summary disposition on Reed Contention 13 should be granted. Applicant does not contest the need for procedures to implement the concept of operations set forth in the plans for each of the counties in the Callaway Plant plume exposure EPZ. To the extent that Mr. Reed may be maintaining the position, Applicant does challenge the need for a separate procedure for each organization and suborganization having an operational role in the county emergency response effort, rather than utilizing functional procedures applicable to more than one organization and suborganization. Applicant also disagrees with Mr. Reed's assertion in Contention 13.B that cities within the EPZ need separate procedures, and with the need for separate procedures for each of the kinds of organizations specified in Contention 13.C.

Several of the affidavits by Mr. John W. Baer address the question of procedures necessary to implement the plans for each of the four counties in the EPZ as well as the issue of what information should be contained in such implementing procedures. Mr. Baer is an emergency planning specialist with the Emergency Planning Department of Energy Consultants, Inc., ("ECI"). ECI provides nuclear emergency response planning services to utilities, industry, state and local governments. A statement of Mr. Baer's relevant experience and professional qualifications is attached to each of his affidavits as Exhibit "A". Mr. Baer has reviewed the offsite radiological emergency response plans, both state and local, for the Callaway Plant, and has participated in their development. Baer-13, ¶ 1.

In Mr. Baer's professional opinion, the county offsite emergency response plans for each of the four counties in the Callaway Plant EPZ establish the concept of operations for local emergency response organizations, consistent with NUREG-0654, planning criterion A.1.b. Annex A of each of the county plans defines the role of each participating organization, and assigns to the organization its respective responsibilities and tasks. These responsibilities are illustrated by the Primary and Support Responsibility Chart attached to Annex A. The chart is organized by individual emergency response organization and by emergency response function. Annex A thus establishes the concept of operations for each

response organization, and establishes the relationship of each organization to the total effort. This information is further delineated in the other functionally organized Annexes to the county plans. The Primary and Support Responsibility Chart for Callaway County/Fulton is attached to Mr. Baer's affidavit on Contention 13 as Exhibit "B". Baer-13, ¶ 4; Baer-4, ¶ 8.

ECI is working with local officials, private agencies and Union Electric Company in developing the implementing procedures for each of the county plans. The specific actions to be taken by emergency personnel will be detailed in these implementing procedures, which are identified in Appendix 3 of each of the county plans. The implementing procedures will be employed during an emergency to guide individual emergency response actions, i.e., to establish how and by whom emergency functions are to be carried out. These procedures are specific to the emergency functions that are identified in Annex A of the county plans. Appendix 3 of each of the four county plans is attached to Mr. Baer's affidavit on Contention 13 as Exhibit "C". Baer-13, ¶ 5; Baer-4, ¶ 8.

In his affidavit on Contention 13, Mr. Baer explains why the functional approach to implementing procedures has decided advantages over the use of implementing procedures for each individual organization having an assigned emergency role. In Mr. Baer's opinion, functional implementing procedures have the following advantages:

- a. Specific emergency actions that must be taken to implement the plans are explained succinctly without undue repetition and confusion.
- b. The procedures can be readily accessed by emergency response personnel who are responsible for a particular emergency function. The procedure will thereby serve as a practical field guide during actual emergency operations.
- c. The functional approach to procedures ensures that all identified emergency functions are covered by procedures.
- d. Fewer procedures are required. A single procedure will apply to several response agencies. For example, the Radiological Exposure Control procedure applies to all emergency response personnel who would be assigned to this function within an affected area. The functional procedure avoids the problem of fragmented repetition of emergency tasks for each individual organization and reduces the volume of paper that would have to be managed.
- e. Functional procedures will apply to local government agencies as well as to outside (public and private) organizations that have been assigned an emergency role. All organizations and personnel with a responsibility for a specific emergency function will

be reading the same procedure, thereby ensuring uniformity of approach and avoidance of potential conflicts and confusion.

- f. Each procedure will clearly identify the response organizations that have a responsibility for the particular function. Consequently, response organizations will be aware of the other organizations and participants that share responsibility for a particular function. The relationship of each organization to the total effort therefore will be further defined.
- g. The timing of specific emergency actions within a functional area will be made clear. The actions to be taken by each organization will be arranged sequentially in the procedure by emergency classification level.
- h. Resource listings will be consolidated. A list of all resources that are available to support a particular emergency function will be appended to the procedure. This will avoid fragmentation of resource listings organization by organization, and will facilitate mobilization of required resources at the proper time during an emergency.
- i. Functional procedures will provide a sound basis for emergency worker training. Procedures that are

specific to individual organizations are not conducive to a comprehensive training program. Functional procedures, on the other hand, will provide the means to structure a training program that will address all elements of the emergency organization and will stress organizational relationships. Baer-13, ¶ 6.

The functional procedures identified in Appendix 3 to each of the county plans will contain instructions for emergency response personnel about how an emergency function is to be carried out, by whom it is to be done, when it is to be done, and with what resources. For example, the Radiological Exposure Control procedure will contain the following elements:

- a. How dosimetry will be acquired by emergency workers.
- b. Which emergency personnel will be issued specific types of dosimetry.
- c. Who will be responsible for distribution.
- d. How dosimetry will be calibrated.
- e. How and when dosimeters will be read and recorded.
- f. How and to whom readings will be reported.
- g. How and by whom control measures will be implemented to prevent excess exposures.

- h. List of resources showing the location, number, and types of radiological equipment that will be available to support this function.

Baer-13, ¶ 7; see also Baer-4, ¶ 16.

If procedures were to be developed for individual organizations rather than by function, instructions, such as those specified for Radiological Exposure Control, would have to be repeated throughout numerous organization procedures. A single procedure could conceivably contain a multiplicity of emergency action instructions. In Mr. Baer's opinion, this would lead to certain confusion and delay in implementation of emergency functions. With functional procedures, an individual organization would need only to refer to those procedures for which it has been assigned an operational role. Id., ¶ 8.

Training for emergency response personnel will be based on the plans and implementing procedures. This training will explain to emergency workers what they are expected to do, where they are expected to do it, when and how they will be notified, and how they are to implement radiological exposure control measures and other emergency actions which are not routine aspects of their normal work functions. Baer-4, ¶ 18. Through training, emergency workers will gain familiarity with the plan's concept of operations and their own role in implementing it.

Logically, implementing procedures need not be provided to organizations that are not assigned functional responsibilities in the event of a radiological emergency. Because none of the cities cited by Mr. Reed in Contention 13.B have functional responsibilities, it would be inappropriate to have implementing procedures for these cities. Baer-13, ¶ 9; see Applicant's Motion for Summary Disposition of Reed Contention 14 (Incorporated Cities, Towns and Villages) and accompanying Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard (Contention 14).

In addition, many of the tasks to be performed by support emergency personnel are routine tasks which individuals regularly perform, e.g., ambulance drivers transporting injured people and tow truck operators hauling cars. Plans and procedures need not detail how these functions will be performed in an emergency. Baer-4, ¶ 17. Thus, with respect to the need for procedures for the organizations identified in Reed Contention 13.C, to the extent trucking companies are called upon and need to know information not otherwise known to them as a part of their normal activity, this information will be provided to them in the Impediment Removal procedure. Baer-4, ¶ 9. To the extent hospital and ambulance personnel are called upon to handle contaminated or exposed personnel, appropriate procedures will be prepared by Radiation Management Corporation and personnel will be trained in these procedures.

Id.; Linnemann-10, ¶ 1 and Exhibit "B". To the extent fire departments are called upon to put out a fire, a procedure is unnecessary. If members of fire departments are called upon to fulfill responsibilities not within their usual experience, e.g., access and traffic control, they will utilize functional procedures applicable to the function to which they are assigned. Baer-13, ¶ 9; see Appendix 3. Finally, with respect to school districts, school plans are currently in preparation, and will include functional procedures, as necessary, for school and bus personnel. Id.

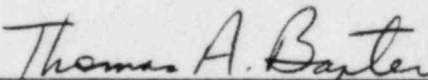
In summary, the functional procedures identified in Appendix 3 will provide adequate instructions to organizations that have been assigned an emergency response role. The procedures relate directly to the emergency functions for which responsibilities have been assigned to individual organizations in the county plans. The procedures will define emergency actions to be taken, will identify the organizations that may be called upon to perform this function, and will establish the timing for particular emergency actions. Consolidated resource lists appended to the procedures will facilitate mobilization of resources when they are needed. The identification of the procedures listed in Appendix 3, taken together with the concept of operations established in the county plans, meet planning criterion A.1.b of NUREG-0654. Baer-13, ¶ 10.

IV. Conclusion

The county plans recognize the need for implementing procedures for functions assigned to emergency workers requiring particular knowledge with which the worker otherwise may not be familiar. These functional procedures, which will be very detailed in nature, correspond to the plans' assignment of responsibilities and overall concept of operations, and therefore are intended to ensure that the plans are capable of being implemented. Verification of the effectiveness of the procedures will take place during the emergency planning exercise. In the absence of any basis for assuming these procedures will not serve their intended function, there is no genuine issue of material fact in dispute among the parties. Accordingly, Applicant's Motion for Summary Disposition of Reed Contention 13 (Organizations Requiring SOPs) should be granted.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE



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