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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	
Philadelphia Electric Company)	Docket Nos. 50-352
)	50-353
(Limerick Generating Station,)	
Units 1 and 2))	

APPLICANT'S ANSWER TO OFFSITE EMERGENCY
PLANNING CONTENTIONS PROPOSED BY LIMERICK
ECOLOGY ACTION, CITY OF PHILADELPHIA,
AND COMMONWEALTH OF PENNSYLVANIA

Preliminary Statement

By Memorandum and Order dated January 20, 1984, the presiding Atomic Safety and Licensing Board ("Licensing Board" or "Board") in this proceeding directed the parties to file all offsite emergency planning contentions to be received in hand by the Board, Staff and Applicant on January 31, 1984.^{1/} On that date, counsel for Philadelphia Electric Company ("Applicant") received proposed contentions served by Limerick Ecology Action ("LEA"),^{2/} as well as a

1/ Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), Docket Nos. 50-352-OL and 50-353-OL, "Memorandum and Order Confirming Rulings Made at Hearings" (January 20, 1984) (slip op. at 1).

2/ LEA Off-Site Emergency Planning Contentions (January 31, 1984) ("LEA Contentions"). The pleading also contained two contentions proposed by intervenor Marvin I. Lewis, one by intervenor Joseph H. White, III and (Footnote Continued)

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statement of issues filed by the Commonwealth of Pennsylvania (Commonwealth") and the City of Philadelphia ("City").^{3/} Both the Commonwealth and City are participating as interested governmental representatives pursuant to 10 C.F.R. §2.715(c).^{4/}

The Licensing Board further ordered that Applicant's response be received in hand by February 14, 1984.^{5/} For the reasons discussed more fully below, Applicant opposes the proposed contentions and issues filed by LEA, the Commonwealth, and the City of Philadelphia. Initially, Applicant considered whether it would be more helpful to the Board if similar contentions were categorized and answered

(Footnote Continued)

another by intervenor Robert L. Anthony. By letter dated February 5, 1984, LEA served additional materials supplementing the proposed contentions. LEA also redesignated the proposed contentions as VIII-21 to VIII-54 to avoid confusion with previously admitted onsite emergency planning contentions numbered VIII-1 to VIII-20. Accordingly, Applicant's Answer to each of the proposed contentions corresponds to the new designation contained in LEA's letter of February 5, 1984.

3/ Statement of Issues of the Commonwealth of Pennsylvania With Respect to Offsite Emergency Planning (January 30, 1984) ("Commonwealth Issues"); Filing of Issues of Concern by the City of Philadelphia Pursuant to the Atomic Safety and Licensing Boards [sic] January 20, 1984 Memorandum and Order Confirming Rulings Made at Hearings (January 30, 1984) ("City of Philadelphia Issues").

4/ Limerick, supra, LBP-24-43A, 15 NRC 1423, 1456 (1982).

5/ Limerick, supra, "Memorandum and Order Confirming Rulings Made at Hearing" (January 20, 1984) (slip op. at 2).

jointly. On review, however, Applicant believes that it would be simpler for the Board if Applicant were to address each contention separately. Following an introductory discussion of the general principles governing admission of emergency planning contentions, therefore, each proposed contention and issue will be discussed seriatim.

Legal Background

The rules governing emergency planning for the Nuclear Regulatory Commission ("NRC" or "Commission") are contained in 10 C.F.R. §50.47 and 10 C.F.R. Part 50, Appendix E. Further regulatory guidance has been provided in NUREG-0654, FEMA-REP-1 (Rev. 1) (November 1980) ("NUREG-0654"). NUREG-0654 does not constitute the only method of meeting applicable regulatory requirements for emergency planning. In the absence of other evidence, however, adherence to NUREG-0654 demonstrates compliance with the Commission's emergency planning regulations.^{6/}

Under these rules and regulatory guidance, the Commission has assumed responsibility for determining "that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological

^{6/} Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), ALAB-698, 16 NRC 1290, 1298-99 (1982); Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-82-39, 15 NRC 1163, 1270 (1982), aff'd, ALAB-717, 17 NRC 346 (1983).

emergency."^{7/} As regards offsite planning, the Commission bases this finding on a review of findings by the Federal Emergency Management Agency ("FEMA") as to "whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented."^{8/}

Accordingly, the NRC has not undertaken the function of determining whether each detail of State and local plans has been filled in or whether the implementing procedures for such plans have been written. Rather, the sole responsibility of the Commission and its licensing boards is to determine whether these plans are capable of being implemented. Insofar as this responsibility bears upon hearings, it necessitates a fundamental distinction between the evolving nature of emergency plans at the time of hearings and the finalized status of plans when a full-power operating license is granted. This distinction has been emphasized by the Appeal Board in several cases. For example, in Zimmer, the Appeal Board stated:

We agree with the applicants that emergency response plans for a particular nuclear power plant need not be in final form at the time an operating license application is noticed for hearing. This conclusion follows from the Commission's expectations that the "plans shall be an expression of the

^{7/} 10 C.F.R. §50.47(a)(1).

^{8/} 10 C.F.R. §50.47(a)(2). See generally Cincinnati Gas & Electric Company (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB-727, 17 NRC 760, 764 (1983).

overall concept of operation; they shall describe the essential elements of advance planning that have been considered and the provisions that have been made to cope with emergency situations." 10 CFR Part 50, Appendix E, Section III (emphasis supplied).^{9/}

Similarly, in San Onofre, the Appeal Board noted that not all planning details need be determined prior to the close of hearings. Citing the Commission's rulemaking on emergency preparedness, the Appeal Board stated:

Substantively, the evidence must be sufficient for the Board to conclude that the state of emergency preparedness "provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency." 10 CFR §50.47(a)(1). The Commission has stressed that this conclusion may be a predictive one, rather than a reflection of the actual state of emergency preparedness at the time of the Board's decision. 47 Fed. Reg. at 30233.^{10/}

More recently, the Appeal Board reiterated this important distinction in the Waterford proceeding, explaining that emergency planning hearings were different than hearings on other issues:

^{9/} Zimmer, supra, ALAB-727, 17 NRC at 770 (emphasis added by Appeal Board). The Appeal Board added that this did not mean that plans, however skeletal, would suffice. It reiterated that the plans submitted must be sufficient to demonstrate reasonable assurance that adequate protective measures can and will be taken in the event of an emergency.

^{10/} Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346, 380 n.57 (1983) (emphasis added).

With respect to emergency planning, however, the Commission takes a slightly different course. At one time, the agency's regulations required a finding that "the state of onsite and offsite emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency." 10 CFR §50.47(a)(1) (1982) (emphasis added). In July 1982, the Commission amended this provision by clarifying that "the findings on emergency planning required prior to license issuance are predictive in nature" and by eliminating the reference to the "state" of emergency preparedness. 47 Fed. Reg. 30232, 30235 (July 13, 1982), petition for review pending sub nom. Union of Concerned Scientists v. Nuclear Regulatory Commission, No. 82-2053 (D.C. Cir. filed Sept. 10, 1982). The notice of proposed rulemaking that preceded this amendment expressed the Commission's intent that "full-scale emergency preparedness exercises [be] part of the operational inspection process and [be] required prior to operation above 5% of rated power but not for a Licensing Board, Appeal Board or Commission licensing decision," 46 Fed. Reg. 61134 (Dec. 15, 1981) (emphasis added). See also 47 Fed. Reg. at 30232. The Commission emphasized, however, that "there should be reasonable assurance prior to license issuance that there are no barriers to emergency planning implementation or to a satisfactory state of emergency preparedness that cannot feasibly be removed." 46 Fed. Reg. at 61135. This, while the plan need not be "final," it must be sufficiently developed to permit the board to make its "reasonable assurance" finding in a manner nonetheless consistent with the guidance of Indian Point [Consolidated Edison Company of New York, Inc. (Indian Point

Station, Unit No. 2), CLI-74-23, 7 AEC 947, 951-52 (1974)] and its progeny.^{11/}

Under the NRC's regulatory scheme for making predictive findings as to the adequacy of offsite emergency preparedness, it is therefore anticipated that certain aspects of emergency plans will not be complete as of the time of a hearing and an initial decision. The Appeal Board in Fermi specifically held that the immediate lack of complete information in the plan at the time of the hearing would not preclude issuance of a full-power license. The Appeal Board stated:

Nor does the lack of completeness of the Monroe County plan, standing alone, preclude issuance of a full power operating license. We recently canvassed that issue in Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346 (1983) and in Zimmer, supra. Those cases explained "that the Commission expects licensing decisions on emergency preparedness to be made on the basis of the best available current information." San Onofre, supra, 17 NRC at 380. But that general principle does not mandate either a final local government emergency plan or a final evaluation of offsite preparedness by FEMA, the agency that has the principal responsibility to conduct such an evaluation. The regulatory scheme set forth by the Commission, we ruled, contemplates that "hearings may properly be held [and a decision on a full power operating license reached] at such time as the plans are sufficiently developed

^{11/} Louisiana Power and Light Company (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1103-04 (1983) (emphasis added by Board).

to support a conclusion that the state of emergency preparedness provides reasonable assurance that adequate protective measures can and will be taken . . . in the event of a radiological emergency." Zimmer, supra, 17 NRC at 775. While we could not draw a bright line respecting how much plan development would be enough for that purpose, it is plain from the Commission's regulatory requirements that offsite plans need not be complete, nor finally evaluated by FEMA prior to conclusion of the adjudicatory process.^{12/}

Many of these details which need not be included in emergency plans prior to issuance of a full-power license are subsequently explained in implementing procedures, lesson plans, manuals and similar documents. As the Board is well aware, this is a standard procedure in emergency preparedness at nuclear facilities generally. As the Appeal Board in Waterford stated, "the implementing procedures supplement the plans with all the details that will be necessary in the event of an actual emergency."^{13/} Examining the provisions of the regulations requiring submission of implementing procedures no less than 180 days prior to the scheduled issuance of an operating license,^{14/} the

^{12/} Detroit Edison Company (Enrico Fermi Atomic Power Plant, Unit 2), ALAB-730, 17 NRC 1057, 1066 (1983) (brackets in original).

^{13/} Waterford, supra, ALAB-732, 17 NRC at 1107.

^{14/} 10 C.F.R. Part 50, Appendix E, §V.

Appeal Board in Waterford held that the content of such implementing procedures was not litigable in hearings:

The timing of this submission, however, convinces us that the Commission never intended the implementing procedures to be required for the "reasonable assurance" finding and thus to be prepared and subject to scrutiny during the hearing. Although there is little "administrative history" on implementing procedures, we believe the Commission did not want licensing hearings to become bogged down with litigation about such details. Instead, the focus should be on whether an applicant's emergency plan itself satisfies the 16 more broadly drafted standards of 10 CFR §50.47(b). Thus, because Joint Interveners' complaint about the nonfinality of the implementing procedures amounts to a challenge to the Commission's regulations, we must reject it.^{15/}

Therefore, hearing issues on emergency preparedness should focus upon whether the plans satisfy the requirements under the broad categories contained in the Commission's regulations as augmented by NUREG-0654.

Many of the proposed contentions in this proceeding reflect a fundamental misunderstanding of these basic principles and seek to litigate, in effect, each and every detail of the plans, including their implementing procedures. Moreover, the proposed contentions demonstrate a basic lack of understanding that an offsite emergency plan for a serious nuclear plant accident, just like emergency

^{15/} Id. at 1107 (footnote omitted).

plans for other disasters or emergencies, must be flexible enough to accommodate varying circumstances that may exist at any given time. The precise situation of all emergency response personnel and resources need not be determined by this Board in order for it to satisfy itself that reasonable assurance exists that adequate protective measures can and will be taken in the event of a radiological emergency.

Accordingly, unless a contention raises a genuine issue of fact as to whether the capability for implementing the State and local emergency plans exists, it should be denied. In particular, the Board should decline to undertake any line-by-line review of specific plans.^{16/} Such detailed analysis is the function of the Pennsylvania Emergency Management Agency ("PEMA") and the Federal Emergency Management Agency ("FEMA") in their review of the plans.

I. LEA Contentions

VIII-21 (LEA): LEA asserts that the offsite plans have not been finalized by adoption. From the perspective of ruling upon contentions, however, the draft plans are sufficiently advanced that they have been submitted to FEMA for informal review and comment. As discussed preliminarily, the very predictive nature of the NRC's findings on the

^{16/} For example, the material submitted by LEA on the Schuylkill Township Radiological Emergency Response Plan ("RERP") contains some 92 itemized comments on plan details. See LEA Contentions at 35-41.

adequacy of State and local emergency plans dictates that such findings be made before formal adoption of the final plans by cognizable officials. Given the dynamic, evolving nature of the plans, their formal adoption at this time would serve no practical purpose. For this reason, it is PEMA policy that formal approval of the county and municipal plans by the cognizable officials is unnecessary until the plans are submitted for formal FEMA review following the emergency exercise.

In any event, there is no basis or specificity furnished for the broad allegation that the plans do not provide a definite assignment of responsibility as required by NUREG-0654, Criterion A. Sweeping allegations like this that the plans do not provide a proper designation of emergency planning roles should be rejected, as in Seabrook, because they are "vague and overly broad."^{17/} Contrary to LEA's assertion, an adequate assignment of responsibility in the plans does not entail a definite naming of individuals, except by title.^{18/}

^{17/} Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), Docket Nos. 50-443-OL and 50-444-OL, "Memorandum and Order (Ruling on Contentions on the New Hampshire Radiological Emergency Response Plan)" (August 30, 1983) (slip op. at 6).

^{18/} NUREG-0654, Criterion A.4; Union Electric Company (Callaway Plant, Unit 1), Docket No. STN-50-483, "Memorandum and Order (Specification of Contentions)" (December 7, 1982) (slip op. at 6).

Finally, the absence of a particular letter of agreement or contract with a supporting organization does not raise any litigable issue as long as the plans, in the language of NUREG-0654, "make clear what is to be done in an emergency, how it is to be done and by whom."^{19/} Thus, LEA has failed "to specify in some way each portion of the plan alleged to be inadequate," rendering the contention a generalized attack on the plans."^{20/}

VIII-22 (LEA): This contention asserts that plans do not assure that each principal response organization is sufficiently staffed because individuals named in the plans have not accepted assigned responsibility or been trained, or demonstrated availability on a 24-hour basis. On the contrary, specific roles and responsibilities are assigned in each plan.^{21/} Whether in some cases specific individuals have been designated, the adequacy of these offsite emergency plans under the Commission's regulations and NUREG-0654 is clear because the plans sufficiently define such responsibilities by title or function.^{22/}

^{19/} NUREG-0654 at 29.

^{20/} Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-82-75, 16 NRC 986, 993 (1982). See also Seabrook, supra, "Memorandum and Order" (August 30, 1983) (slip op. at 4-5).

^{21/} See, Montgomery County RERP at 8-18; Berks County RERP at 8-15; Chester County RERP at 8-14.

^{22/} See NUREG-0654, Criterion A.1.d., A.2.a. and A.4.

Nor is there anything to litigate because particular emergency response officials and personnel have not yet received training. Under NUREG-0654, Criterion O, it is merely required that the plans demonstrate that each response organization has assured the training of appropriate individuals, that each offsite response organization will participate in and receive training, and that the training program for instructing and qualifying personnel who will implement the emergency response plans will, in addition to class room training, include practical drills in which each individual demonstrates ability to perform his assigned emergency function. There is no claim that any of the plans for establishing training programs^{23/} is deficient,^{24/} or that any particular training plan is deficient in instructing or qualifying particular individuals to perform assigned emergency response functions.^{25/} The same kind of

^{23/} See Risk County RERP's Annex R.

^{24/} Applicant shall refer generally to the RERP's for Montgomery, Chester and Berks Counties as Risk County RERP's and likewise for municipalities and area school districts within Risk Counties.

^{25/} To reiterate, Applicant believes that the substantive content of training materials is the kind of implementing detail which licensing boards are not expected to litigate. Nonetheless, as explained in response to VIII-31, infra, currently available training materials have been furnished to LEA.

unspecified challenge to offsite training programs was rejected as a contention in the Wolf Creek proceeding.^{26/}

There is no basis alleged for LEA's assertion that reliable 24-hour availability of emergency response personnel has not been demonstrated. The Risk County plans clearly state that the County Emergency Operations Center ("EOC") will operate on a 24-hour/day basis.^{27/} Each Risk County RERP, Annex A, Appendix A-1, lists the EOC personnel who are to be contacted at home or work on a 24-hour basis. Thus, there is no particular deficiency alleged in any plan provision as to the availability of emergency response personnel on a 24-hour basis.

As regards any staffing "unmet needs" depicted in LEA's Table #1, the chart merely demonstrates that personnel requirements have been identified and are in the process of being addressed in accordance with the various plans. LEA is apparently unfamiliar with the particular scheme utilized in Pennsylvania for developing capabilities and resources to be utilized in emergency planning. Specifically, LEA erroneously assumes that the various "unmet needs" identified in municipal plans must be "met" by the municipality

^{26/} Kansas Gas & Electric Company (Wolf Creek Generating Station, Unit 1), Docket No. 50-482, "Memorandum and Order Ruling on Scope of Emergency Planning Issues" (July 28, 1983) (slip op. at 6-7).

^{27/} See Risk County RERP's, Annex A (A-1).

before the plan is deemed to be complete. Such is simply not the case. In its Disaster Operations Plan, Annex E - Fixed Nuclear Facility Incidents, PEMA defines "unmet needs" as "[c]apabilities and/or resources required to support emergency operations but neither available nor provided for at the respective levels of government." ^{28/} In other words, the statement of an "unmet need" in a Risk Municipal REPP provides the pertinent Risk County with information to determine whether that particular resource or capability can be satisfied at the county level. If not, it will be met at the State level, or conceivably, at the federal level. These interrelationships are explained in the Disaster Operations Plan, Annex E. ^{29/} Therefore, LEA incorrectly assumes that the statement of any "unmet need" in particular plans constitutes a deficiency. Rather, it only means that the need will be met at the next level of government.

This approach is fully consistent with NRC regulations and NUREG-0654. In particular, NUREG-0654, Criterion C.4 requires the plan to identify emergency response assistance resources, but does not demand that each ambulance driver or radio operator be specifically identified before the plan

^{28/} Disaster Operations Plan, Annex E at E-7.

^{29/} See, e.g., Disaster Operations Plan, Annex E at E-35, explaining that municipalities must ascertain "unmet needs" and report these to the county emergency management agency.

can be approved. Accordingly, the statement of "unmet needs" is simply a process of identifying needed capabilities and resources at the municipal, county and Commonwealth level and describing the means by which emergency response assistance resources will be provided to meet those needs.

VIII-23 (LEA): This contention asserts that the Montgomery County RERP is inadequate because it relies upon the Bucks County Support Plan, which LEA speculates Bucks County might not adopt. The Bucks County Support Plan states, however, that responsibilities for support activities "have been assigned" to members of the Bucks County Emergency Operation staff.^{30/} The Plan further states: "A detailed description of each staff position responsibility may be found in the Bucks County Commonwealth Disaster Operation Plan (DOP 1980) or the referenced SOP."^{31/} A delineation of particular staff responsibilities is also given.^{32/}

There is absolutely no basis for the speculation by LEA that Bucks County officials would abrogate their public responsibilities or that allocated resources will not be made available. Here again, LEA has simply pointed out that

^{30/} Bucks County Support Plan at 9.

^{31/} Id.

^{32/} Id. at 9-12.

the plans must be finally adopted, but has not alleged any particular deficiency in the plan itself. Hence, no litigable issue exists.^{33/}

VIII-24 (LEA): Similarly, LEA notes that the Lehigh County Support Plan has not yet been finally approved. No deficiency is shown in the plan or even alleged. Clearly, the plan is sufficiently complete to determine its acceptability. No substantive issue, however, has been raised.

VIII-25 (LEA): In this contention, LEA asserts that the plans are insufficient until all appropriate letters of agreement with support organizations and agencies have been executed. From the perspective of judging whether or not the plans themselves "can be implemented,"^{34/} the fact that all letters of agreement have not yet been signed is irrelevant. The plans reflect the discussions and understandings reached by responsible planning officials. Moreover, the Risk and Support Counties have submitted Risk and Support County, Municipality, and School District plans to PEMA for

^{33/} Unless the Board specifically requests, Applicant sees no purpose in responding to the comments on the Bucks County Support Plan at pages 9-10 of the LEA Contentions. Essentially, the comments are addressed to matters which are explained in the appendices to the Bucks County Support Plan or in related documents. Other matters, such as Red Cross operations raise no litigable issue, as discussed in response to VIII-27, infra.

^{34/} 10 C.F.R. §50.47(a)(2).

review, which has forwarded them to FEMA for informal review. As such, the plans as drafted can be implemented.

In the absence of any specifics alleged by LEA to show that a given agreement cannot or will not be implemented, it must be presumed that the governmental agency or contractor will honor its commitment to implement its undertaking in specific terms. To hold otherwise would be to question the good faith of the local governments in requesting and providing emergency response assistance resources. As required by NUREG-0654, Criterion II.C.4, providers of emergency response assistance resources have been identified. Later confirmation of such plan provisions by a formal letter of agreement raises no litigable issue.

This issue arose in Waterford, where the Appeal Board distinguished the situation in which it was claimed that necessary resources were lacking from that in which "[a]ll that is needed are the formal agreements" for providing such resources.^{35/} The essence of LEA's claim is not that such resources are lacking or cannot be provided, but rather that specific, binding agreements are necessary because governmental support organizations cannot be trusted to meet their commitments. This raises no litigable issue.

VIII-26 (LEA): This contention similarly asserts that the plans for the Risk Counties are inadequate because

^{35/} Waterford, supra, ALAB-732, 17 NRC at 1105.

formal letters of agreement have not been executed. For the reasons discussed in response to VIII-25, the formal execution of such agreements is not required at this time and the absence of such agreements reduced to writing does not per se raise any litigable issue. There is nothing invalid or illogical about the natural sequence of obtaining commitments later confirmed by written agreement. Accordingly, no deficiencies in the plans themselves have been shown.

VIII-27 (LEA): This contention asserts that the Chester and Berks County plans are inadequate because their executed agreement with the Red Cross does not expressly mention a "radiological emergency." This assertion is incorrect. The agreement with Berks County expressly covers "man-made disasters including nuclear incidents" (Berks County RERP, Appendix T-1-3), and the Chester County RERP expressly covers "disasters with company or owner liability implications" (Chester County RERP, Appendix T-1-5). Accordingly, pre-existing agreements such as this are adequate and may be incorporated into the respective Risk County plans because, by their terms, they cover nuclear incidents.^{36/}

^{36/} The agreement recently signed between Montgomery County and the Red Cross, which is applicable to its RERP, also expressly refers to a nuclear incident.

In any event, the contention is frivolous. The American Red Cross is a national disaster relief organization which Congress has specifically named by statute in authorizing the President to enter into an agreement for providing relief for disaster assistance after a major disaster or emergency.^{37/} As a nationally recognized organization with a proud history in providing urgently needed relief to disaster victims, there is no basis whatever for assuming that Red Cross volunteers would fail to perform the functions to which they have agreed. There is certainly no allegation that Red Cross volunteers have failed to perform their assigned duties in any other potential life-threatening emergency. Such speculation is not a proper basis for a contention.

Insofar as LEA makes the same argument for other support agencies or contractors, such general speculation likewise fails to raise any litigable issue. Again, it is the responsibility of local governments to ensure that adequately trained and qualified individuals will be available to respond in an emergency. If certain individuals are unwilling to assume responsibilities in the event of a radiological emergency, this will be determined during the

^{37/} See Section 312 of the Disaster Relief Act of 1974, 42 U.S.C. §5152.

early training and exercise phases by the individual's participation in these activities.

VIII-28 (LEA): This contention contains essentially the same speculation, on a broader scale, that emergency workers will disregard their assigned functions and flee in panic during a radiological emergency. Given the responsibilities of local governments under NUREG-0654 and the Commission's regulations for implementing emergency plan procedures, it is not the duty of this Board to determine the responses of particular volunteers, but rather whether the State and local plans under which they operate "can be implemented."

As noted above, determining the willingness of volunteers to respond in a radiological emergency is essentially an element of the training and exercise basis of the plans. Obviously training plans and work sessions will entail information regarding particular hazards that might be incurred and protective measures which should be taken in the event of a radiological emergency.^{38/} This contention constitutes, in essence, a generalized attack upon the adequacy of such training and exercise programs without the

^{38/} See generally Risk County RERP's, Annex R.

requisite specificity and basis necessary for a valid contention.^{39/}

VIII-29 (LEA): This contention is a general assertion that the plans fail to provide adequate assurance of sufficient resources and funding. No specific deficiency in any plan is alleged. Moreover, there is no legal basis to litigate the availability of resources and equipment for which the local governments have committed in their plans. Financial assistance by Applicant for training and certain resources is not required by regulation or NUREG-0654. NUREG-0654 simply notes that a utility may have an incentive to provide such assistance, but does not run counter to the basic principle that such matters are ultimately the responsibility of "the involved State and local governments who must prepare emergency plans to support the nuclear facilities."^{40/}

^{39/} In contrast to the vague doubts raised by LEA, emergency workers responded in force as required during the site emergency in February 1982 at the Ginna facility near Rochester, New York. It is noted that the Three Mile Island accident in March 1979 preceded the existence of enhanced emergency planning for nuclear power plants. Nothing in the contention about the TMI accident, however, raises any specific deficiency in these plans.

^{40/} NUREG-0654 at p. 25. As regards the correspondence between Chester County officials and Applicant provided in LEA's letter dated February 5, 1984, it is noted that Applicant responded in a letter dated February 1, 1984 stating that some of the services and equipment requested would be provided by Applicant.

After deciding that NRC regulations do not require any particular funding mechanism to provide State or local governments with financial assistance to implement emergency plans, the Board in Callaway rejected a similar contention as follows:

The NRC's responsibility, as reflected in its regulations, is to condition the grant of an operating license to a finding that emergency preparedness provides a reasonable assurance that adequate protective measures will be taken in a radiological emergency. 10 CFR 50.47(a)(1). It could ultimately prove to be the case, that limited financial resources make it impossible for State or the local governments involved to develop and implement emergency response plans to an extent that such a finding could not be made. In that event, a license will not be issued. All the Board says here however - germane to the issue of the contention - is that funding for emergency planning purposes is not now within the jurisdiction of the Board.41/

Accordingly, whether such assistance is provided, or in which instances, is not a litigable issue.

VIII-30 (LEA): In this contention, LEA asserts that the plans are deficient because some items have not yet been entered. As with its previous contentions, this one also fails to recognize the dynamic, evolving nature of emergency planning. Obviously, the plans are periodically updated as specific hardware and personnel needs are identified. From

41/ Callaway, supra, "Memorandum and Order" (December 7, 1982) (slip op. at 4-5).

the perspective of determining reasonable assurance that the plans are adequate, however, the important point is that the plans provide an appropriate basis for identifying and meeting such needs once the specifics have been determined. There is no allegation that the Risk Counties and Municipalities have not identified and cannot satisfy any "unmet need."^{42/}

The items "to be developed" in the Risk Municipal plans cited by LEA also fail to raise any real issues for the reasons previously discussed. Designation of named individuals to perform assigned tasks, the formal entry of letters of agreement with support agencies and contractors, the designation of particular locations for emergency response coordinators personnel and the development of equipment inventories are matters which will be addressed in the finalized plans prior to formal FEMA approval. Again, the plans are dynamic and will include ongoing changes. Nothing listed by LEA in this contention, however, demonstrates any insufficiency in the plans themselves. Under the Commission's standard by which licensing boards make "predictive" findings as to the adequacy of emergency response plans, such details are not the basis of an adjudicatory hearing.

^{42/} See response to VIII-22, supra.

As discussed preliminarily, licensing boards do not undertake the kind of line-by-line analysis of the plans envisioned by the tables included in this and other contentions by LEA. Thus, although LEA has detailed a great many minutiae, it has failed to state with particularity any specific deficiency in the plans themselves which will preclude their adequate implementation.^{43/}

VIII-31 (LEA): This contention simply notes the existence of a number of unmet needs for school buses to evacuate certain Montgomery County public schools in the Pottsgrove, Pottstown and Spring-Ford Area School Districts. As such, no particular problem with the sufficiency of the plan has been raised. As discussed previously, "unmet needs" are identified for the purpose of determining whether local resource needs will be filled at the county or Commonwealth level, e.g., by directing buses from another county.^{44/} There is no allegation that the number of buses

^{43/} Accordingly, Applicant sees no purpose in responding to the particular items discussed at pages 16-25 in LEA's Contentions.

^{44/} For example, since only a small portion of Berks County lies within the plume exposure pathway EPZ, Berks County has a substantial surplus of buses well in excess of that which it needs to implement emergency planning for Limerick. As the Appeal Board noted in San Onofre, buses for school evacuation within the EPZ may even be obtained from school districts beyond the EPZ. Southern California Edison Company (San Onofre Nuclear Generating Station, Units 2 and 3), ALAB-717, 17 NRC 346, 375 (1983).

(Footnote Continued)

needed for evacuation of these schools is inaccurately stated, or that the buses cannot be obtained. Hence, the mere identification of "unmet needs" in the School District plans raises no litigable contention that these plans cannot be successfully implemented.

The contention also notes that the plans have not yet specified the buses available for evacuation of certain nonprofit, private schools covered by Montgomery School District RERP's.^{45/} As previously stated, LEA inaccurately characterizes the buses needed to evacuate certain schools as "unmet needs." In fact, the plans reflect that this information is to be determined. Again, there is no allegation that adequate bus transportation for evacuation cannot be arranged. Nor is there any allegation that training for school bus drivers and other school personnel fail to meet the legitimate concerns which the NRC may address.^{46/}

(Footnote Continued)

It is unclear how LEA developed the figures for Souderton and Upper Perkiomen School Districts in its Table #8 because none of the schools in those districts lies within the plume exposure pathway EPZ.

45/ The Risk County RERP, Annex N (N-1) states:

"Non-profit private schools are the responsibility of the school district in whose territory they are located. This responsibility includes planning, notification and coordination of transportation."

46/ The specific procedures for bus driver training are
(Footnote Continued)

VIII-32 (LEA): This is another contention in which LEA speculates that individuals will not perform their assigned responsibilities. As regards the specific responsibilities of teachers and staff in the event of a radiological emergency during school hours, no particular deficiency is alleged as to the "Concept of Operations - School in Session" contained in Part V of the School District plans. Indeed, if one were to assume that school officials would not perform their assigned functions, the entire concept of school evacuation would be unworkable.

Again, there is no allegation that the training and exercise provisions of the plans are inadequate in any respect.^{47/} Absent such an allegation, this contention is simply an invalid, generalized attack upon the training program provided in the plans.

(Footnote Continued)

outlined in the lesson plan prepared by Applicant as part of its offsite training program. This particular lesson plan, inter alia, has been furnished to LEA. While these materials have been provided to LEA at its request, Applicant reiterates its position that such implementing details are no basis for admissible contentions. The limited areas of concern appropriate for NRC consideration were explained by the Appeal Board in San Onofre, supra, ALAB-717, 17 NRC at 375.

^{47/} As indicated in responses to VIII-31, Applicant has furnished LEA with its lesson plan for bus driver training. Additionally, two lesson plans for a general introduction to nuclear energy and radiation as well as specific lesson plans for school officials and for school teachers and staff were provided. While legally irrelevant, nothing in these lesson plans has been challenged as insufficient.

VIII-33 (LEA): LEA contends that special provisions have not been made for the evacuation of day-care centers. Preliminarily, LEA has overlooked the listing of preschool and other educational special facilities in the plume exposure pathway EPZ in Montgomery County RERP, Annex N (Appendix N-1-3), which expressly states that notification and emergency planning are the responsibility of the particular municipality in which the preschool facility is located.

LEA is incorrect in its allegations as to day-care facilities located in Berks County, whose plans refers to two day-care centers. Specifically, the Berks County RERP (Appendix N-7-1) refers to the Lincoln School, which is a public, intermediate unit operation, housing a separate day-care center. The day-care center has been incorporated in the Lincoln School RERP as a matter of courtesy and convenience and is also included in the Boyertown Area School District RERP.^{48/} The Montessori Academy has its own RERP and is included in the Boyertown Area School District RERP because it is a private school receiving transportation from that school district.^{49/}

As to the broader aspects of this contention, however, LEA is simply mistaken that the Risk County plans were

^{48/} See Boyertown Area School District RERP (A2-29).

^{49/} Id. at A2-21.

intended to include specialized evacuation procedures for day-care centers in general. In providing overview, the Commonwealth has validly distinguished between "hospitals, nursing homes, and other public institutions"^{50/} which require specialized plans for protective responses and, on the other hand, members of the general public who will be notified at the home, office or other private places and who will therefore be included in protective responses provided for the public at large. Under this distinction, private, unlicensed institutions are not included in school district RERP's.

Contrary to the apparent thrust of this contention, nothing in the NRC's regulations or NUREG-0654 requires that specialized planning and evacuation procedures be established for private facilities such as day-care centers. As with any other segment of the general population with special needs, such as the handicapped or invalids, transportation will be pre-arranged as needed on the basis of responses to the population surveys undertaken by the Risk Counties to ensure evacuation in the event it is required.

VIII-34 (LEA): This contention asserts that school district plans are deficient because dosimeters and KI will

^{50/} Commonwealth Disaster Operations Plan, Annex E at E-31. The local plans follow this basic distinction.

not be provided for school bus drivers, teachers or other school staff.^{51/} This contention invalidly assumes that school staff will be required to reenter the EPZ once evacuation of the school children for which they are responsible has been accomplished. There is no basis in the school district plans for this assumption. The school district plans specifically state: "Sufficient transportation will be provided to move all students inside the EPZ in one lift."^{52/} No basis has been shown that this cannot be accomplished.

More fundamentally, LEA wrongly assumes that school personnel assisting in the evacuation of school children are "emergency workers" for whom means for controlling radiological exposures must be planned under NUREG-0654, Criterion K. As the school district plans make clear, school personnel will supervise the evacuation of school children from the plume exposure pathway EPZ and remain with them at receiving host centers until each student has been picked up by a parent or guardian.^{53/} As such, school personnel are simply part of the general public being

^{51/} As stated more fully in response to VIII-50, *infra*, the distribution and administration of KI lies within the discretion of Commonwealth officials.

^{52/} School District RERP's, §II.G.3.c.

^{53/} *See, e.g.*, Pottstown School District RERP, §V.D.2.e. and Annex N (N-2).

evacuated and are covered by the procedures governing radiation exposure control for the general public in the Risk County RERP's, Annex M, §V, as distinct from those governing emergency worker radiation exposure control in Annex M, §VI. Similarly, decontamination and monitoring procedures for the general public and emergency workers are different.^{54/} LEA has cited no provision of the school district plans requiring school personnel to reenter the EPZ or otherwise render emergency response assistance.^{55/}

The second part of this contention alleges that the school district plans are deficient because proper training for school personnel has not been reasonably assured. Here again, LEA has confused emergency workers, for whom special training is required, with school personnel, who are part of the general public evacuated during an emergency. While each Risk County will have programs for initial training and refresher training for school personnel, including bus drivers,^{56/} the responsibilities of school principals, teachers and other staff are adequately spelled out in detail in the school district plans. Evaluation by county,

^{54/} See Risk County RERP's, Appendix M-1, §I. As discussed in the response to VIII-50, infra, it is up to the Commonwealth to decide whether KI will be used and, if so, for which segment of the population.

^{55/} See generally School District RERP's, §V.

^{56/} See Risk County RERP's, Annex R-3. See also notes 46 and 47, supra.

PEMA or FEMA observers of school personnel performance during drills and exercises will assure that these responsibilities are understood.

VIII-35 (LEA): This contention asserts that the school district plans are deficient because there are inadequate provisions to assure the availability of bus drivers during an emergency. Essentially, the contention is based upon speculation that bus drivers will not report as required, but will evacuate themselves and their families first. No basis is given for assuming that bus drivers will not perform as required in the event of a radiological emergency.

Certainly, nothing in NUREG-0654 requires schools to have separate letters of agreement with their own personnel, including bus drivers. Also, LEA provides no basis for its speculation that drivers may be unable to reach buses or schools during an evacuation. Such a faulty premise ignores the fact that notification will be given to the schools based upon the specific incident classification in effect, and that, during a site emergency, schools will be notified and requested to place transportation resources on standby status.^{57/} The prior positioning of school buses at schools and transportation staging areas is confirmed at the general

^{57/} See, e.g., Montgomery County ERP, §VIII.D.3.p and Annex C (C-5).

emergency stage.^{58/} Under these provisions, the schools will be notified and kept advised of the ongoing situation well in advance of any general notification to the public at large at the general emergency stage.^{59/} There is no need to provide specially for transportation of bus drivers, since they routinely reach their buses or schools on their own. No litigable issue is raised by this contention.

VIII-36 (LEA): LEA asserts in this contention that various plans do not provide adequate protection for Catholic schools, convents and rectories. LEA notes that such nonprofit private schools are the responsibility of the respective school district superintendents, but fails to allege any particular deficiency in the school district plans regarding Catholic schools.^{60/} The only basis cited by LEA is the Perkiomen Valley School District RERP, which includes St. Mary's School (Attachment 2-9) and St. Eleanore School (Attachment 2-11). No particular deficiency is cited with respect to the evacuation plans for these two schools.

^{58/} Id. at C-7. See generally Montgomery County RERP, Annex N.

^{59/} See, e.g., Montgomery County RERP, §VIII.D.2.g.; VIII.D.3.p.; and Annex N (N-3 to N-4) (alert and site emergency notifications to schools).

^{60/} Obviously, convents and rectories will be evacuated on the same basis as other private residences within the plume exposure pathway EPZ. As noted previously, special plans are not required for such private facilities.

As LEA itself notes, it is the Commonwealth's policy that parochial schools, as "licensed private schools," are to be considered under the plans for school districts in which they are located. For the Board's information, each parochial school within the plume exposure pathway EPZ has gone beyond the Commonwealth's policy and prepared individual plans which supplement the school district plans. Again, no deficiency in this approach or in any particular parochial school plan has been cited.

VIII-37 (LEA): This contention alleges that certain Risk Municipality plans are incomplete or, in LEA's view, contain certain errors or omissions. Aside from the lack of any merit, each of the particular comments by LEA on the West Vincent Township and Schuylkill Township plans represents the kind of quibbling over details with which a licensing board should not become involved in determining the overall acceptability of the plans. For example, it is not the responsibility of the Board to determine whether a particular towing service should be chosen over another,^{61/} or whether a "physical floor plan sketch" of the Schuylkill Township EOC is necessary.^{62/}

Moreover, a number of the comments demonstrate a clear misunderstanding of the emergency planning principles by

^{61/} LEA Contentions at 33.

^{62/} Id. at 37.

which the plans were drafted. For example, LEA questions how ambulances will "enter our area when they would have to buck traffic the whole way?"^{63/} LEA is evidently unaware that all the plans are based upon two-way traffic during an evacuation for the express purpose of keeping an incoming lane open for emergency vehicles.

LEA's comment as to the Downingtown High School is, in effect, a request that the plume exposure pathway EPZ be extended and is therefore an illegal challenge to 10 C.F.R. §50.47(c)(2).^{64/} Other comments, such as "[t]he statement that the plan applies to the plume exposure pathway implies coverage of airborne perils only"^{65/} are clearly frivolous. Incredibly, LEA even claims that "[t]he exclusion of schools [from Attachment G, stating the number of persons requiring transportation assistance] is ill-advised,"^{66/} completely overlooking the Montgomery County School District plans provided. Unless requested by the Board, Applicant sees no point in answering this proposed contention with a detailed response refuting each of LEA's comments on the West Vincent Township and Schuylkill Township plans.

^{63/} Id. at 34.

^{64/} Id.

^{65/} Id. at 35.

^{66/} Id. at 40.

VIII-38 (LEA): This contention asserts that the plans are deficient because planning for drills and exercises is not sufficiently detailed. There are, however, no particular deficiencies alleged by LEA, i.e., that the exercises and drills scheduled in the plans do not meet the requirements of NUREG-0654, Criterion N. To the extent that LEA alleges that such exercises and drills do not provide a sufficiently realistic test of emergency plans and response capabilities, the contention appears to be an attack upon the validity of the Commission's regulations in 10 C.F.R. §50.47(b)(14) and Appendix E, Section IV.F. The Risk Counties and Municipalities will rely upon PEMA guidance in determining whether particular exercises should be unannounced. Obviously, such a generalized attack upon the sufficiency of drills and exercises is "overly broad and lacking specificity."^{67/}

VIII-39 (LEA): This contention questions whether adequate funding arrangements have been assured for training. As previously stated, there is no basis for admitting a contention based upon such generalized skepticism regarding the commitment of the local governments to provide the resources necessary to accomplish their stated emergency response objectives. The plans state that Risk Counties and

^{67/} Seabrook, supra, "Memorandum and Order" (August 30, 1983) (slip op. at 7-8).

Municipalities will participate in training programs made available by FEMA, PEMA and Applicant.^{68/} Other training will be provided by the County with the support and assistance of PEMA and Applicant.^{69/} Accordingly, no basis exists to question the availability of training resources.

VIII-40 (LEA): This contention asserts that the plans do not demonstrate that sufficient and diverse communications capabilities exist among emergency response organizations. No specific deficiency is alleged. Rather, LEA cites several areas of concerns regarding congested commercial communications, adverse weather conditions, and loss of normal power sources. These concerns are all essentially related to reliance on ordinary commercial telephone systems.

While commercial telephone lines can be used, each Risk County relies upon direct radio communications with municipal police, fire, and medical personnel.^{70/} Thus, in addition to commercial telephone, the Risk Counties will utilize a dedicated telephone switch, the Radio Amateur Civil Emergency Service ("RACES") and Amateur Radio

^{68/} See Risk County RERP's, Annex R; Commonwealth Disaster Operations Plan, Annex E, Appendix 19.

^{69/} Risk County RERP's, Annex R (R-2 to R-3).

^{70/} See Montgomery and Berks County RERP's, Annex B, Appendix B-1; Chester County RERP, Annex B, Appendix B-2.

Emergency Services ("ARES") communications network,^{71/} and the new PEMA Radio System, comprised of 20 UHF "remote/repeaters" prepositioned at various locations throughout the Commonwealth.^{72/} These systems provide sufficient diversity and redundancy in the event that normal commercial communications are overtaxed in an emergency.

Essentially the same contention was rejected in the Shoreham proceeding as lacking in specificity or basis. The Board ruled that the intervenor had "set forth no reason to doubt the capability of these standard communication systems," nor specified any particular reason why the plan was insufficient in the absence of further data.^{73/}

It is unclear what particular communications problem is posed by LEA's suggestion that spontaneous evacuation outside the EPZ might occur in an emergency. Communications with Support Counties likewise employ redundant systems.^{74/}

As regards unspecified claims of possible problems with other volunteers, there is no showing that RACES and CB

^{71/} As against the vague claims of "problems" with amateur radio operators, the plans demonstrate that more than enough volunteers to man the Risk Municipality EOC's have already been recruited. See Berks and Montgomery County RERP's, Annex B, Appendix B-2; Chester County RERP, Annex B, Appendix 3.

^{72/} See note 70, supra.

^{73/} Shoreham, supra, LBP-82-75, 16 NRC at 1012.

^{74/} See, e.g., Montgomery County RERP, Annex B, Appendix B-1-2.

systems operators could not perform the assignments for which they have volunteered. In any event, the plans reflect sufficient volunteers such that communications would be uninterrupted even assuming the unavailability of some volunteers.^{75/}

Finally, the plans state that each Risk County EOC will be organized, equipped and staffed, when augmented, to maintain 24-hour operations for an extended period, maintaining contact with municipal governments located within the plume exposure pathway EPZ.^{76/}

VIII-41 (LEA): In this contention, LEA alleges that certain Risk Municipal plans are deficient because the Emergency Operations Center ("EOC") or alternative EOC have not been designated. The selection of the particular location to be used presents no litigable contention. As a practical matter, the EOC's will be designated in time for the emergency drill and exercise. There is no contention by LEA that an appropriate site cannot be selected and, therefore, no contention that the municipal plans are not capable of being implemented. Moreover, adjacent municipalities can operate a combined EOC as described in the plan. Some municipalities may elect this particular

^{75/} See note 71, supra.

^{76/} See Montgomery County RERP, Annex B, §III.A.8; Berks County RERP, Annex B, §III.A.8; Chester County RERP, Annex B, §III.A.6.

option. Finally, there is no requirement under NUREG-0654 or elsewhere for an "alternative" EOC. Applicant is advised by PEMA that upon evacuation, EOC personnel would report to the designated alternate seat of government.

VIII-42 (LEA): Like VIII-40, this contention asserts that adequate communication systems do not exist among governmental units and principal response organizations. The only examples cited, however, relate to concerns regarding communications to and from Risk Municipal EOC's. As noted in response to VIII-40, adequate backup communication systems exist to permit coordination between Risk County and Municipal communications centers. Accordingly, diverse and redundant communication systems exist.

This is confirmed by reference to the Risk Municipality RERP's, §II.C., which indicates that telephone will be the "primary means of communicating to/from" the municipal EOC's, but that direct radio communications will exist between the EOC and the County as well as police and other emergency services. Accordingly, this contention wrongly assumes that systems other than commercial telephone links will be unavailable. No deficiency in the overall communications network has been shown.

VIII-43 (LEA): This contention alleges that the plans are inadequate because farmers within the plume exposure pathway EPZ who have livestock have not been provided communications and support, including dosimetry, KI and decontamination facilities. This allegation

mischaracterizes the Chester County plan and reflects a misunderstanding of its provisions as well as those of the Commonwealth Disaster Operations Plan. Chester County RERP, Annex O, §§III.L.1 and IV, provides the relevant procedures by which a farmer may elect to re-enter the plume exposure pathway EPZ following an evacuation. These provisions are fully consistent with the Commonwealth Plan which provides:

Although everyone will be asked to evacuate the affected area, farmers may be allowed to reenter the area to take care of their livestock. 77/

Accordingly, whether particular farmers choose to re-enter the plume exposure pathway EPZ to care for livestock will be an ad hoc decision at the time of the emergency.

Therefore, predistribution of dosimetry and KI would be impractical and unnecessary. In the Three Mile Island proceeding, the Appeal Board thoroughly reviewed these provisions and determined them to be adequate. As the Appeal Board noted, the plans provide for distribution of dosimeters and KI to farmers in the event of a radiological emergency,^{78/} but this does not include predistribution to farmers. The Appeal Board determined that these measures were "a reasonable effort to insure protection for farmers"

77/ Commonwealth Disaster Operations Plan, Annex E, Appendix 17 (E-17-8).

78/ Metropolitan Edison Company (Three Mile Island Nuclear Station, Unit No. 1), ALAB-697, 16 NRC 1265, 1278 (1982).

consistent with NRC's emergency planning regulations and therefore provided "reasonable assurance of adequate protective measures for the health and safety of farmers."^{79/} Accordingly, this contention raises no litigable issue.

VIII-44 (LEA): This contention alleges that the Risk County plans are deficient because they do not contain reliable evacuation time estimates. This contention lacks legal basis. NUREG-0654 requires each licensee's emergency plan to "contain time estimates for evacuation within the plume exposure EPZ."^{80/} Based upon these estimates and existing circumstances, each licensee is required to "establish a mechanism for recommending protective actions to the appropriate State and local authorities."^{81/} Under the specific arrangements in Pennsylvania, protective action recommendations from a licensee will be given directly to the Bureau of Radiation Protection, which has responsibility for initial assessment of the incident and advising PEMA as to the appropriate protective response.^{82/} Accordingly, protective actions, including evacuation, are determined at the Commonwealth level, not by the counties. The counties

^{79/} Id. at 1279.

^{80/} NUREG-0654, Criterion J.8.

^{81/} NUREG-0654, Criterion J.7.

^{82/} See Commonwealth Disaster Operations Plan, Annex E, E-10, E-11, E-18; Appendix 6 (E-6-2); Appendix 7 (E-7-E-4).

will receive protective action recommendations from PEMA.^{83/} Accordingly, there is no legal requirement that the county plans contain evacuation time estimates, and no deficiency in the plans has been shown.

In any event, the time estimates provided in the Pennsylvania Department of Transportation ("Penn DOT") study, which are incorporated in the Risk County and Municipality plans, are adequate for planning purposes. As LEA was previously advised by Applicant at the meeting among representatives of LEA, the City of Philadelphia, the Commonwealth and Applicant on January 26, 1984, Applicant has made arrangements for a new evacuation time study. It is estimated that this new study will be available in March 1984.

VIII-45 (LEA): In this contention, LEA asserts that the plans are inadequate because they fail to account for certain recreational and commercial areas contiguous to the EPZ. Listing four parks and two shopping malls specifically, LEA asserts that activities in these areas would affect an evacuation from the 10-mile EPZ. Preliminarily, there is no factual basis for some of the allegations since neither the Marsh Creek State Park nor King of Prussia area is "contiguous" with the plume exposure pathway EPZ, as

^{83/} See Montgomery County RERP, §VII.D.4.i; Berks County RERP, §VII.D.4.h; Chester County RERP, §VII.D.4.i.

alleged. Also, part of the French Creek State Park is included within the EPZ. Finally, there are a number of "Horseshoe Trails" in the area, some of which are within the EPZ. Therefore, the contention should be rejected as lacking in basis or specificity.

In any event, the actual concern of this contention is not readily apparent. It is unclear how the particular areas outside the plume exposure pathway EPZ designated by LEA should be "included" in the plans. Insofar as activities there or elsewhere outside the EPZ would affect traffic flow during an evacuation, this factor would necessarily be considered in the evacuation time study. Since the purpose of such studies is to provide real-time estimates of traffic flow,^{84/} reasonable assumptions will be made as to flow of traffic into the EPZ by persons

^{84/} As the Appeal Board explained in Zimmer, "the Commission's emergency planning requirements do not prescribe specific time limits governing the evacuation of plume EPZs." Zimmer, supra, ALAB-727, 17 NRC at 770. The purpose of an evacuation time study, therefore, is to enable "the responsible governmental officials . . . to make an informed decision respecting what is appropriate protective action in a given radiological emergency [by having] available to them time estimates that are realistic appraisals of the minimum period in which, in light of existing local conditions, evacuation could reasonably be accomplished." Id. at 770-71. See also Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), Docket Nos. STN 50-454-OL and STN 50-455-OL, "Initial Decision (Operating License)" (January 13, 1984) (slip op. at 14-15); Seabrook, supra, "Memorandum and Order" (August 30, 1983) (slip op. at 14).

returning home to pick up other family members or for other reasons before attempting to evacuate.^{85/} As noted in response to VIII-37, all plans are based upon two-way traffic.

VIII-46 (LEA): This contention asserts that the plume exposure pathway EPZ should be expanded miles outward "to include the City of Philadelphia and surrounding metropolitan area."^{86/} This contention is squarely an attack upon the Commission's regulations establishing the size and configuration of the plume exposure pathway EPZ in 10 C.F.R. §50.47(c)(2). Although the regulation authorizes minor adjustments in the 10-mile radius of the EPZ in consideration of local demography, jurisdictional boundaries, and other factors, it has been uniformly held that any major enlargement such as that sought by LEA, which would expand the size of the EPZ in the range of an order of magnitude or more, it is not permitted.^{87/}

^{85/} It is altogether unclear what LEA means by problems "in the preliminary stages of alert. LEA Contentions at 46. Evacuation time estimates ordinarily include assumptions regarding the number of individuals who would evacuate prior to formal notification by the responsible officials. This contention presents no litigable issue.

^{86/} LEA Contentions at 46.

^{87/} Carolina Power & Light Company (Shearon Harris Nuclear Power Plant, Units 1 and 2), Docket No. 50-400-OL and 50-401-OL, "Memorandum and Order (Reflecting Decisions Made Following Prehearing Conference)," (September 22, (Footnote Continued)

VIII-47 (LEA): The first part of this contention asserts that the plans are inadequate because the siren system is not yet "operative and in place."^{88/} There is, nonetheless, no allegation that the particular siren system designated by Applicant is in any way deficient.^{89/} Under NRC precedents, siren coverage is a matter which can be left to responsible officials to determine during emergency planning drills and exercises, and need not be adjudicated by this Board. Faced with a similar contention that the plan was deficient if sirens had not yet been installed, the Appeal Board in Waterford rejected this assertion, holding:

We agree with the Board that these details "can properly be overseen by the staff." . . . In our view, installation and testing of the siren system is precisely the type of matter for which the Commission believes predictive findings can suffice at this stage. Joint Intervenors make no challenge to the adequacy of the warning system itself or to the staff and FEMA review process. Further, there is no reason on this record to assume that the system will not function as proposed. If

(Footnote Continued)

1982) (slip op. at 26); Shoreham, supra, "Memorandum and Order" (August 19, 1982) (slip op. at 11); Southern California Edison (San Onofre Nuclear Generating Station, Units 2 and 3), LBP-81-36, 14 NRC 691, 698 (1981); South Carolina Electric and Gas Company (Virgil C. Summer Nuclear Station, Unit 1), Docket No. 50-395, "Memorandum and Order" (September 14, 1981) (slip op. at 5).

^{88/} LEA Contentions at 51.

^{89/} Applicant has provided LEA specific information on this system, including the feedback mechanism which will assure operational verification.

serious deficiencies in this part of the plan are revealed by the pre-full power exercise, the Commission will have to defer full power license issuance until the problems are cured. 90/

As noted in the Risk County RERP's, route alerting is a supplemental means of notification.^{91/} Alert routing sector layout designation will necessarily depend upon the layout of the siren system. The plans adequately describe the procedures by which route alerting is accomplished by available police, fire, and other emergency response personnel and vehicles. No showing has been made that any municipality within the plume exposure pathway EPZ lacks the resources to accomplish this function.

The second portion of this contention asserts that there is no assurance that emergency workers can be designated or notified promptly. No basis is given for the allegation that particular emergency response personnel cannot be "designated."^{92/} As regards LEA's criticism of the notification system outlined in the Chester County RERP, Annex C, LEA wrongly assumes that there is a "sequential calldown process." In fact, notification of municipalities and emergency response personnel will be made by a number of

90/ Waterford, supra, ALAB-732, 17 NRC at 1104-05.

91/ See, e.g., Montgomery County RERP, Annex C, Appendix C-6.

92/ This particular aspect of the contention has previously been discussed in answer to VIII-21 and VIII-22.

individuals at the Chester County Communications Center. The provision in the plan for message verification by log entry^{93/} is consistent with the statement in NUREG-0654, Appendix III.C.2.b, that "message verification is essential."

The final portion of this contention asserts an inadequacy in the Chester County plan for notification of the general populace within the plume exposure pathway EPZ because WCOJ, the designated Emergency Broadcast System ("EBS") does not broadcast 24 hours a day. Again, this is the kind of detail which is easily resolved by planning officials. In this case, arrangements could be made with the manager of Station WCOJ to broadcast in off-hours in the event of an emergency at Limerick. If necessary, a station could be selected outside of Chester County. These options present no litigable issue for this Board.

VIII-48 (LEA): This contention alleges that plans are not currently available for the Spring Mountain House, a boarding home in Upper Salford Township, the Camp Hill Village School, located in West Vincent Township, and the Camp Hill Special School, located in East Nantmeal Township.

As explained above, NRC regulations and NUREG-0654 do not require specialized planning for every identifiable segment of the population. Accordingly, Commonwealth,

^{92/} Chester County RERP, Annex C (C-2).

county and local plans provide special notification and protective action measures for schools, nursing homes and other public institutions.^{94/} Private licensed institutions serving similar needs, such as parochial schools, are included within the pertinent plans or have their own plans (or both).^{95/} Unlicensed private institutions, however, are treated as members of the general public. The three private institutions named in this contention fall into the latter category.

Contrary to the allegation, Applicant has no information that the Spring Mountain House is anything other than a boarding home. LEA's bald assertion that it is a "nursing home" lacks basis.^{96/} In any event, any handicapped persons or invalids there can respond during the population survey to identify their transportation needs, just like any other member of the public. The same is true of the other two private, unlicensed facilities listed. In short, no legal or factual basis has been raised to demonstrate any deficiency in the plans as regards these institutions.

VIII-49 (Lewis): This contention asserts that the plans are inadequate because they do not identify "who will

^{94/} See response to VIII-33, supra.

^{95/} See response to VIII-36, supra.

^{96/} As noted in note 50, supra, "nursing homes" do receive the benefit of specialized planning under Annex E and the local plans.

have to be called in off-site management [sic] declaring any level of emergency." Preliminarily, this is obviously a late-filed onsite emergency planning contention. Since the intervenor has neither addressed the criteria for admitting late contentions nor provided any reason why this particular one was not submitted earlier,^{97/} it should be dismissed without consideration.

Even considered on its merits, the contention is frivolous because it is based on the erroneous premise that onsite plant personnel must contact off-site company management "before declaring an evacuation emergency." Section 5.2.1.1 of the Limerick Emergency Plan states that the Shift Superintendent, or the Shift Supervisor as his alternate, both positions being filled 24 hours a day on rotating shifts, is the Interim Emergency Director at the plant. The duties of the Interim Emergency Director include verification of the existence of an emergency, classification according to emergency level, and notification of offsite organizations and agencies.

The confidentiality of the phone numbers of offsite management is required by the NRC in order to avoid the possibility of inadvertent confusion or deliberate efforts to frustrate an emergency response. See Generic Letter

^{97/} It is noted that the contention was originally proposed as VIII-16 in the Supplemental Petition of Coordinated Intervenors (filed November 24, 1981).

81-27 from Director, Division of Licensing, Office of Nuclear Reactor Regulation (July 9, 1981).^{98/}

VIII-50 (Lewis): This contention asserts that the plans do not require administration of potassium iodide (KI) soon enough to assure the public health and safety. As one may properly infer from the lack of any stated basis for this contention under NUREG-0654 or 10 C.F.R. §50.47 and Part 50, Appendix E, there is absolutely no authority requiring distribution of KI. Administration of KI to the general public and/or emergency workers is wholly a matter of individual State determination. The State decision regarding use of KI and procedures for its distribution are therefore matters beyond consideration by this Board. Accordingly, there is no basis for any contention asserting the inadequacy of local plans as regards any possible choice of options by State officials on the distribution and administration of KI.

VIII-51 (White): In this contention, intervenor asserts that he works within the plume exposure pathway EPZ and travels from job to job in a truck. As such, his general allegations that the plans do not adequately provide

^{98/} In a letter dated February 7, 1984 from Donald C. Fischer, Project Manager, Division of Licensing, to Edward G. Bauer, Jr., Vice President and General Counsel, Philadelphia Electric Company, the NRC reiterated that such information would be deleted upon request by the licensee before emergency plans were made public.

notification, shelter or evacuation are wholly vague and lacking in basis. As a member of the transient population with transportation, this intervenor will be notified and, if need be, evacuated or otherwise protected on the same basis as any other resident within the EPZ.^{99/} As in Seabrook, this contention challenging provisions for "transients" is "fatally vague."^{100/}

VIII-52 (Anthony): This contention asserts a lack of emergency planning for the "Valley Forge National Historic Park and the King of Prussia area."^{101/} As indicated by the Limerick Generating Station Evacuation Plan Map, the Valley Forge National Historic Park lies almost wholly below the southeast perimeter of the plume exposure pathway EPZ.^{102/}

^{99/} The provisions of NUREG-0654, Criterion G.2 and J.10.c, which refer to education and notification of "transient" populations, refers to temporary residents in the area, not passers-through like this intervenor, who would receive notification through the siren system and other generally used procedures or systems.

^{100/} Seabrook, supra "Memorandum and Order" (August 30, 1983) (slip op. at 12).

^{101/} LEA Contentions at 55. Initially, Mr. Anthony does not state any basis for his standing to raise this contention. He does not state whether he personally resides in the King of Prussia area or visits the Valley Forge Park frequently. As such, he has not established the requisite "injury-in-fact" necessary for standing. Westinghouse Electric Corp. (Export to South Korea), CLI-80-30, 12 NRC 253, 258 (1980); Transnuclear, Inc., CLI-77-24, 6 NRC 525, 530-31 (1977).

^{102/} A narrow strip of land north of the Schuylkill River
(Footnote Continued)

The King of Prussia area is further beyond the EPZ. No reason is given why these particular populations outside the EPZ require evacuation. None of the special factors for making minor adjustments in the EPZ configuration under 10 C.F.R. §50.47(c)(2) is addressed. Indeed, if configuration of the plume exposure pathway EPZ were altered because of increasingly concentrated areas of population outside the EPZ, the entire concept of emergency planning for nuclear power plants would be effectively destroyed. As stated in response VIII-45, consideration of time estimates for evacuating the EPZ will necessarily take into account any possible congestion created by traffic flow in the areas immediately contiguous to or near the EPZ, such as the Valley Forge Park and King of Prussia.

VIII-53 (LEA): This contention asserts that the plans are deficient because specific arrangements are not now in place by which the Pennsylvania National Guard will provide tow wreckers and gasoline along evacuation routes. Specific plans for tow trucks and gasoline distribution are implementing details which are not relevant to the adequacy

(Footnote Continued)

shoreline in Lower Providence Township constitutes a small portion of the Valley Forge Park within the plume exposure pathway EPZ. The inclusion of this small portion is justified by two of the factors relevant under 10 C.F.R. §50.47(c)(2), i.e., natural and political boundaries. The Schuylkill River, in addition to being a natural boundary, is also a boundary between Lower Providence Township and Upper Merion Township.

of the plan. Activation and mobilization of the National Guard requires an order by the Governor, and will be requested by and implemented through PEMA. Under the Commonwealth Disaster Operations Plan, Annex E, the Pennsylvania Department of Transportation will assist with roadway clearance on main evacuation routes.^{103/} However, the chief responsibility for roadway clearance and fuel resources, including coordination of these activities, lies with the Public Works Group for each Risk County.^{104/} The possibility of adverse weather conditions, such as a heavy snowstorm, raises no litigable issue. Such conditions would simply be another factor affecting the decision to evacuate or shelter during an emergency.

VIII-54 (LEA): This contention is essentially an attempt to repudiate the very concept of emergency planning, asserting that the "sheer volume of things which are happening causes the plan to fail."^{105/} As such, the contention is clearly an attack upon the Commission's regulations for emergency planning under 10 C.F.R. §50.47 and Part 50, Appendix E, as augmented by NUREG-0654. Nothing litigable

^{103/} See Commonwealth Disaster Operations Plan, Annex E, E-29; Risk County RERP's, Annex K, §III.

^{104/} Id. at §§III and IV.

^{105/} LEA Contentions at 61.

is presented by this defeatist analysis, nor is any basis stated for the contention.

VIII-55 (LEA): LEA asserts that the existing multi-county plan approach is inadequate because a regional, tri-county plan might be better. The only basis for this assertion is the discussion in NUREG-0654 at pages 19-21 concerning the variety of governmental structures which might exist in various jurisdictions within the EPZ and how those entities might best utilize available emergency response organizations and resources. Nothing in NUREG-0654 or the Commission's regulations, however, mandates the adoption of the approach sought by LEA. There is no basis for the NRC even to consider imposing some different structure upon local governments in organizing and planning for an emergency.

Rather, the sole function of the NRC is to determine whether "there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency."^{106/} It should be noted, nonetheless, that the various techniques, systems and procedures for coordination among State and local officials at all levels of emergency planning have become increasingly sophisticated and effective since issuance of NUREG-0654 in 1980. Enhanced capacities for communication and

^{106/} 10 C.F.R. §50.47(a)(1).

notification among governmental planning organizations has therefore greatly reduced any concerns expressed initially in NUREG-0654 regarding coordination among State, county and municipal governments. Accordingly, this contention raises no litigable issue.

City of Philadelphia Issues

Preliminarily, it is noted that, while an interested State or other governmental body need not furnish contentions or take a position on the issues, any participant pursuant to 10 C.F.R. §2.715(c) is required to comply with the requirements of specificity and bases in filing contentions if it chooses to do so.^{107/} Further, an interested governmental body must meet the requirements for filing late contentions.^{108/} The City has filed two late contentions regarding Applicant's Emergency Plan, but has failed to explain why its onsite contentions were not timely filed, and has not addressed the factors for considering late contentions under 10 C.F.R. §2.714(a)(1)(i)-(v).

The remainder of the City's contentions pertain to long-range responsibilities of the Commonwealth for protection procedures in the ingestion pathway EPZ. While

^{107/} Public Service Company of New Hampshire (Seabrook Station, Units 1 and 2), LBP-82-76, 16 NRC 1029, 1079 (1982).

^{108/} Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-83-30, 17 NRC 1132, 1139 (1983).

Applicant understands that PEMA will continue to work with the City on its concerns as a matter of comity, legally all of the City's "issues" exceed the requirements of NUREG-0654 and are beyond the jurisdiction of this Board.

As the NRC and FEMA have long recognized, the implementation of protective actions in the ingestion exposure pathway, in the hypothetical emergency, unlike the plume exposure pathway EPZ, need not be taken immediately. In the event of a radiological emergency, greater time exists to marshal resources and capabilities in the ingestion pathway EPZ. If need be, personnel could be brought into the affected area from neighboring States as well as federal agencies. Accordingly, NUREG-0654 provides that each State must specify the protective measures to be taken in the ingestion pathway, but does not require that particular manpower levels or State departmental capabilities be identified.^{109/}

The Appeal Board described the important distinction between responsibilities for the plume exposure pathway EPZ and the ingestion pathway EPZ in the San Onofre proceeding as follows:

Unlike the much smaller plume EPZ where evacuation or sheltering from the plume may be a matter of immediacy, protective action in the 50-mile radius ingestion EPZ need not be as immediate. Contamination would be traceable to

^{109/} See NUREG-0654, Criterion J.11.

ingestion, not to external radiation exposure, and the conservative response of a broad-scale foodstuffs quarantine or disposal is always available. Moreover, the kinds of ingestion EPZ protective action that would be suggested - such as quarantining or disposing of certain foodstuffs in designated areas - are highly site and accident specific: hence, they are less amenable to planning in advance of an accident than the comparable responses of sheltering or evacuation that are appropriate for the plume EPZ.^{110/}

City-1: This contention asserts that the Commonwealth Disaster Operations Plan, Annex E, Appendix 17 ("Annex E, Appendix 17") does not provide sufficient guidance on how sampling, providing information, and providing assistance in control of contaminated water or food products will be accomplished. The only specific criticism is that Annex E, Appendix 17 "does not specify the type, number or availability of personnel required to complete these functions."^{111/} No legal basis is stated, however, for imposing a requirement for this degree of specificity in a State plan as regards protective measures to be taken in the ingestion pathway EPZ following a nuclear accident.

In particular, NUREG-0654 provides that the State plan must identify procedures for detecting contamination, for estimating the dose commitment consequences of uncontrolled

^{110/} San Onofre, supra, ALAB-717, 17 NRC at 373.

^{111/} City of Philadelphia Issues at 5.

ingestion, and for imposing particular protection procedures.^{112/} The City has failed to allege, much less demonstrate, any basis for an allegation, that Annex E, Appendix 17 does not meet these requirements. In particular, the field sampling procedures, including a delineation of the particular agencies which will conduct or assist in field sampling, fully meets NUREG-0654 requirements.^{113/}

Similarly, the City does not refer to any requirements in NUREG-0654 regarding the availability of public information, nor does it point to any deficiency in Annex E, Appendix 17 in this respect.^{114/} As regards control of contaminated water or food products, nothing in NUREG-0654 requires identification in advance of the type, number or availability of personnel to implement the particular protection procedures outlined in NUREG-0654, Criterion J.11.

City-2: This contention likewise asserts that there is some uncertainty in the level of resources at the disposal of the Commonwealth to implement controls on foods, foodstuffs and water. Annex E, Appendix 17 states that the

^{112/} NUREG-0654, Criterion J.11.

^{113/} See Annex E, Appendix 17, §IV.A. These provisions make it clear that while incidental assistance might be requested of County Emergency Management Agency, the Commonwealth itself has adequate resources to conduct field sampling.

^{114/} See Appendix 17, §§V.B, VI.B, VII.

Department of Agriculture will coordinate with the Bureau of Radiation Protection and the Department of Health "in the collection and disposition of contaminated commodities and food products in accordance with recommended limits of radioactivity established by the Federal Food and Drug Administration ("FDA").^{115/} NUREG-0654 does not require more than the identification of these procedures. In particular, manpower and capability levels need not be stated because it is rationally assumed that, in the event of a radiological emergency, such resources can be promptly marshalled.

City-3: In this contention, the City asserts that Annex E, Appendix 17 procedures for sampling for water contamination and notification of downstream water companies are inadequate. Specifically, the City alleges that these provisions do not protect existing supplies from contamination, prevent the use of contaminated water, or provide alternative sources of water. Contrary to the contention, there is no legal basis under the NRC's regulations or NUREG-0654 for requiring contingency plans to protect existing supplies from contamination or to provide alternative sources of water for downstream users. Rather, protective responses in the ingestion pathway EPZ are designed to detect contaminated food, foodstuffs and water

^{115/} Annex E, Appendix 17, §III.A.1.b.4.

and to protect against "the dose commitment consequences of uncontrolled ingestion."^{116/} Such protective responses include disposal, quarantine, processing and the like, but none of the additional measures suggested by the City.^{117/}

Nothing in the contention identifies any deficiency in the Commonwealth's procedures for preventing the use of contaminated water by downstream users.^{118/} The City points to no specific requirement under the NRC's regulations or NUREG-0654 which requires anything more.

City-4: This contention asserts that Annex E, Appendix 17 fails to include sampling, testing and reporting of possible contamination of aquatic life in the food chain. This contention is extremely vague and lacking and specificity. It is unclear what "aquatic life" is of concern, or why, if contaminated, it would not be interdicted under the measures generally applicable to contaminated food or water. Nothing in the references cited by the City provides any legal basis for this contention.

City-5: This contention asserts that Annex E, Appendix 17 fails to consider pre-exposure medical or other protective measures to prevent ingestion exposure. As discussed previously, a State's decision as to the

^{116/} NUREG-0654, Criterion J.11.

^{117/} Id.

^{118/} See Annex E, Appendix 17, §§III.A.2, IV.B.

distribution and administration of KI is not mandated by any NRC requirement or NUREG-0654.^{119/} This contention is entirely lacking in any factual or legal basis as to any other unspecified protective measure.

City-6: Contrary to the City's assertion, Annex E, Appendix 17 provides more than adequate guidelines for controlling and preventing the distribution and consumption of possibly contaminated processed food. Again, the City seems to argue that the Commonwealth plan must contain a cookbook of procedures as to how some hypothetical event will be handled. As noted above, especially by the Appeal Board in San Onofre, supra, this is totally contrary to the understanding recognized in NUREG-0654 that the State must have the latitude to determine the correct course of action based upon the conditions which exist at the time. Annex E, Appendix 17 lays out the matters which will be covered to assure that all aspects of the food chain are properly reviewed, ranging from alerting the public to any possible immediate hazard, the disposal of milk and removal of dairy cattle from affected pastures and issuing advisories to food processors to assure that they do not introduce contaminated foodstuffs into the food chain.^{120/} It is not clear what Colbertistic scheme the City contemplates, but Annex E

^{119/} See Response to VIII-50, supra.

^{120/} See Annex E, Appendix 17, §§IV to VII.

properly identifies potential problems and sets forth the pertinent guidelines to assure the protection of the health and safety of the public as contemplated by NUREG-0654.

City-7: This contention criticizes the provisions of Annex E, Appendix 18 regarding recovery. Inasmuch as recovery and reentry planning concerns only the plume exposure pathway EPZ, the City has alleged nothing which might even conceivably effect its limited interests regarding protection procedures in the ingestion pathway EPZ. Simply put, nothing in 10 C.F.R. §50.47(b)(13) or NUREG-0654 requires "recovery" in the ingestion pathway EPZ. It is well recognized that recovery and reentry are long-range considerations for which only skeletal planning is required, considering that ad hoc decision-making will be necessary under the widely varying circumstances of any particular emergency.^{121/} A similar contention was rejected on this basis in Shoreham in which the Board held that "[t]here is no basis for requiring the type of detail

^{121/} Thus, under 10 C.F.R. §50.47(b)(13), only "[g]eneral plans for recovery and reentry" are necessary. In Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-82-70, 16 NRC 756, 766 (1982), the Board observed that the State's roles in recovery and reentry do not "require immediate response in an emergency since they do not deal with immediate life threatening situations." See also San Onofre, supra, LBP-82-39, 15 NRC at 1207-08.

suggested here in a before-the-fact recovery and reentry plan."^{122/}

City-8: This contention asserts that Annex E, Appendix 17 does not provide for the training of personnel and exercises and drills within the ingestion pathway EPZ. The contention is an attack upon the emergency planning regulations adopted by FEMA in 44 C.F.R. Part 350, which expressly provide:

States within the 50-mile emergency planning zone of a site shall exercise their plans and preparedness related to ingestion exposure pathway measurements at least once every five years in conjunction with a plume exposure pathway exercise for that site.^{123/}

Under this regulation, therefore, exercises within the ingestion pathway EPZ are required only every five years in conjunction with the scheduled exercise for a particular site.

With regard to allegations concerning the training of Commonwealth officials, the plan makes clear that personnel from all agencies having pertinent responsibilities for rendering response assistance will receive adequate training. LEA has failed to articulate with any specificity or bases that any further, specialized training is necessary

^{122/} Shoreham, *supra*, "Memorandum and Order" (August 19, 1982) (slip op. at 24).

^{123/} 44 C.F.R. §350.9(4). *See* 48 Fed. Reg. 44332, 44339 (September 28, 1983).

for actions taken in the ingestion pathway EPZ. Thus, the contention is extremely vague and lacking in specificity. No assertion is made of what additional training should be given, or how additional exercises and drills would improve emergency preparedness for protective measures to be used for the ingestion pathway.

City-9: The City asserts that there is "no agreement as required"^{124/} between the Applicant and the Commonwealth identifying matters included within the provisions of NUREG-0654, Criterion A.3, regarding the concept of operations. Here again, the City has confused the responsibilities and the procedures imposed by NUREG-0654 upon the States and nuclear facility licensees in emergency planning for the plume exposure pathway EPZ with the fully separate responsibilities under Criterion J.11 for planning in the ingestion pathway EPZ. Under the latter provision, there is no requirement for any "agreement" between a State and a licensee.^{125/} No basis exists for this contention.

City-10: This contention asserts that two of the implementing procedures, EP-318 and EP-319, for Applicant's Emergency Plan require clarification. Preliminarily, this

^{124/} City of Philadelphia Issues at 7.

^{125/} The other provisions of NUREG-0654 cited by the City are also irrelevant. Criterion B.9 pertains to onsite emergency planning by the licensee, and Criterion L.1 relates to local and backup hospital and medical services for contaminated injured individuals.

contention regarding Applicant's onsite plan is late and the City has failed to address any of the factors for admitting late contentions under 10 C.F.R. §2.714(a)(1) and the Commission's case law. Further, the Appeal Board in Waterford, expressly held that such implementing procedures were not the basis of admissible contentions.^{126/}

The City's position appears to be based upon the premise that each implementing procedure for the onsite emergency plan must be self-contained. To the contrary, an implementing procedure is just that: the relationship to the plan itself, i.e., the procedure simply describes what will be done under the plan in a given condition. As such, the City did not understand that work to be done under EP-318 must be read in the context of the other pertinent procedures and the plan itself. In this particular case, carrying out EP-318 and EP-319 is part of the responsibilities of the Limerick Dose Assessment Team, which in this case would make the required surveys. The procedure for notification, of course, is specified elsewhere in EP-287, which would provide appropriate downstream notification through PEMA.

City 11: Similarly, the City asserts that implementing procedure EP-287 requires clarification. This is another late, inadmissible onsite contention. In any event, the

^{126/} Waterford, supra, ALAB-732, 17 NRC at 1106-07.

City has again failed to read this particular procedure in context to other procedures, EP-210 and EP-312, which provide for these responsibilities. As noted above, these procedures will provide appropriate notification to downstream users through PEMA.

City-12: In this contention, the City challenges the absence of FEMA/EPA standardized protective action guidance for exposure from contaminated food stuffs or water, or from contaminated material deposited on property or equipment. This contention constitutes an attack upon NUREG-0654 and, by implication, upon the Commission's emergency planning requirements under 10 C.F.R. §50.47 in general. Whatever the status of guidance provided by FEMA documents beyond NUREG-0654, the contention fails to assert any legal deficiency in Annex E, Appendix 17. This contention is therefore wholly without basis.

Commonwealth of Pennsylvania Issues

Commonwealth-I: In this contention, the Commonwealth asserts that no license should be authorized until arrangements are in place for the procurement and distribution of self-reading and permanent record thermoluminescent dosimeters to all offsite emergency workers. This issue was thoroughly canvassed by the Appeal Board in Three Mile Island. Initially, the Appeal Board noted that "[t]here are no explicit regulatory requirements that mandate use of dosimeters," i.e., "there are no formal regulations regarding the number or type of dosimeters to be distributed, or

when they should be distributed."^{127/} The Appeal Board then observed that NUREG-0654 "recommends that each emergency organization - i.e., licensee, state and various local governments - provide its own emergency workers with both self-reading and permanent record dosimeters (such as TLDs)."^{128/} Accordingly, the proposed contention lacks any legal basis in the Commission's regulations or NUREG-0654.

Nonetheless, the Board should understand that procurement and distribution of self-reading dosimeters and TLDs is under discussion between Applicant and PEMA. At this juncture, it is largely a matter of determining the number of dosimeters which are necessary. Thus, the procurement and distribution and dosimeters presents no real issue of contention between Applicant and the Commonwealth.

Commonwealth-II: This contention asserts that Applicant must prepare an updated evaluation time estimate study for the plume exposure pathway EPZ. This survey could not be conducted until PEMA had designated its evacuation routes now shown on the Evacuation Plan Map made publicly available in December 1983. As noted previously in response to VIII-44, such a study is expected to be completed in March 1984. Applicant has committed that its evacuation time study consultant will coordinate directly with PEMA so that

^{127/} Three Mile Island, supra, ALAB-698, 16 NRC at 1294.

^{128/} Id. at 1294-95.

its work will reflect full implementation of PEMA criteria. Accordingly, inasmuch as PEMA's concerns will be resolved informally by consultation with Applicant and its contractor, no real litigable issue exists.

Conclusion

For the reasons discussed more fully above, the proposed contentions and issues fail to meet the Commission's requirements for admitting offsite emergency planning contentions and should be denied.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

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February 13, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
Philadelphia Electric Company) Docket Nos. 50-352
) 50-353
(Limerick Generating Station,)
Units 1 and 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicant's Answer to Offsite Emergency Planning Contentions Proposed by Limerick Ecology Action, City of Philadelphia, and Commonwealth of Pennsylvania" dated February 13, 1984 in the captioned matter, have been served upon the following by deposit in the United States mail this 13th day of February, 1984:

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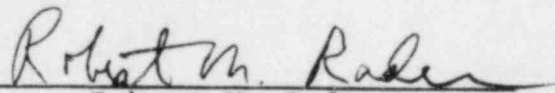
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