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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 SEP 14 A11:09

Before the Atomic Safety and Licensing Board

OFFICE OF SECURITY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
)	
Philadelphia Electric Company)	Docket Nos. 50-3520C
)	50-3530C
(Limerick Generating Station,)	
Units 1 and 2))	

APPLICANT'S ANSWER TO LIMERICK ECOLOGY ACTION'S
RESPECIFICATION OF OFFSITE EMERGENCY
PLANNING CONTENTIONS

Preliminary Statement

On September 6, 1984, Limerick Ecology Action ("LEA") served its respecified contentions upon the Licensing Board and parties. As the Board is aware, Applicant and the concerned governmental agencies have met with LEA on several occasions to explain how the various plans and implementing procedures will work in practice, most recently on August 30, 1984 in Philadelphia. This meeting culminated the supply of voluminous information and updates to LEA over the past several months to demonstrate that its concerns regarding planning resources have been substantially resolved.

LEA, however, has not only declined to narrow the issues originally admitted, but has, in its respecified contentions, significantly (and impermissibly) sought to expand them.

Thus, contrary to the Board's Order, dated August 15, 1984, requiring "narrowing and focusing by LEA" of admitted

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contentions, LEA would inject new issues, some of which the Licensing Board has already rejected, and which otherwise lack any legal basis in the NRC's emergency preparedness regulations or guidelines. Notwithstanding its general discussion of the requirements for late contentions,^{1/} LEA has failed to demonstrate that the new aspects of its redesignated contentions qualify for admission under these standards.^{2/} The Board should therefore reject the respecified contentions as discussed below.

Moreover, apart from its unauthorized expansion of issues, LEA has failed to narrow and refocus any admitted contentions, as expressly required by the Board in its August 15 Order. Because LEA has failed to obey the Board's Order, the Board should enter appropriate sanctions. Under these circumstances, where the filing of prepared testimony is only a month away, the only meaningful sanction the Board could impose would be to dismiss any contention or part thereof for which written testimony is not submitted by LEA. Given LEA's unwillingness to refocus its contentions despite the extensive information provided it over the past several

1/ In the interest of brevity, Applicant will not recite the well established rules for admitting late contentions, which Applicant has addressed previously as to numerous proposed, late contentions, all of which have been rejected to date by this Board.

2/ If the Board should nonetheless admit the respecified contentions, it should reopen written discovery on them to allow inquiry into the new matters alleged.

months, it is no longer realistic to assume that any other form of order (i.e., further negotiations and rewording of contentions) will motivate LEA to take a hard look at what it actually wishes to litigate.

Argument

I. LEA's Respecified Contentions Should be Denied Insofar as They Impermissibly Expand the Admitted Issues.

Applicant will discuss each of the reworded contentions seriatim. It will discuss only those portions of the contentions which constitute an improper expansion of admitted issues.

Contention LEA-11: As originally pleaded and admitted,^{3/} this contention essentially totalled the student population in the EPZ, compared it with the number of buses designated as available in the School District plans, and observed that a shortfall existed at that time. Now, however, LFA seeks to raise entirely new issues, i.e., the adequacy of letters of agreement between local governments and bus companies (Item 2), provisions for transportation from host schools to mass care centers (Item 3),^{4/}

^{3/} See Special Prehearing Conference Order at 51 (April 20, 1984).

^{4/} Under the plans, only those school children who have not been picked up by 8:00 p.m. will be transported to mass care centers. Most students would, of course, be picked up by that time. See, e.g., Pottstown School District RERP, Section II.G.3.f. At 8:00 p.m., which
(Footnote Continued)

assignment and mobilization of buses (Items 4 and 8), emergency planning for school districts adjacent to and beyond the plume exposure EPZ (Item 5),^{5/} the time within which school evacuation would occur (Item 7),^{6/} and traffic control measures during school evacuation (Item 10).^{7/} Thus, only Items 1, 6 and 9 relate to the originally admitted contention.

LEA has shown no justification for raising these new matters now. It has not alleged that any particular item

(Footnote Continued)

would be at least five hours after any school evacuation, there would be a large surplus of buses to transport the few students still at the host schools. In fact, buses for which the Risk Counties have agreements will be available to meet any transportation need, not just for school transportation. See, e.g., Montgomery County RERP, Annex T, Section C. All references to the plans are to the most current versions.

- 5/ The unedited version of the current Montgomery County RERP, Annex I, Appendix 2, Tab 3 at page I-2-9, indicates that only 42 of 84 vehicles operated by the North Penn School District have been committed to evacuate schools within the EPZ. This avoids any "conflict" between North Penn's needs and evacuation needs as hypothesized by LEA. The unedited plans have been made available to LEA for inspection and copying, but apparently were not reviewed by LEA in preparing its revised contentions.
- 6/ LEA now takes issue with a statement in the HMM Evacuation Time Estimates Study, based on information from County Emergency Management Directors, despite the availability of the study since May 1984.
- 7/ To the contrary, traffic control measures for school evacuation exist and have been a part of plans as provisions regarding parental pick-up of children since initially provided to LEA. See, e.g., Pottstown School District RERP, Section V.B.2.i.

within the revised contention could not have been asserted on the basis of the plans furnished it much earlier. Moreover, a number of those items fail to raise any litigable issues. For example, there is no requirement under the Commission's regulations or NUREG-0654 that letters of agreement contain enforceable obligations.^{8/} To require such would clearly violate the basic premise of emergency planning that support organizations can be relied upon in the event of an actual emergency to provide the support and assistance which they have committed.^{9/}

LEA also erroneously asserts that school districts outside the EPZ must themselves develop plans. No such requirement exists.^{10/} Finally, there is no basis for LEA's

^{8/} See 10 C.F.R. §50.47(b)(3), which requires that "[a]rrangements for requesting and effectively using assistance resources have been made" NUREG-0654, Criterion C.4, similarly requires that such arrangements have been made and "identified and supported by appropriate letters of agreement." The basic elements for letters of agreements are further defined by Criterion A.3.

^{9/} Thus, sufficiency of resources and ability to provide them under letters of agreement are litigable issues, whereas enforceability of such agreements is not litigable. Decisions to date requiring letters of agreement to be obtained indicate no inclination to "look behind" the agreements as to their basic commitment. See, e.g., Louisiana Power and Light Company (Waterford Steam Electric Station, Unit 3), ALAB-732, 17 NRC 1076, 1105-06 (1983); Kansas Gas & Electric Company (Wolf Creek Generating Station, Unit No. 1), Docket No. 50-482, "Initial Decision (Operating License)" (July 2, 1984) (slip op. at 19).

^{10/} See NUREG-0654, Criterion J.

contention that school children will not be evacuated "in a timely manner"^{11/} inasmuch as there is no specified period under the rules within which evacuation of the EPZ, or any particular segment, must occur.^{12/}

Contention LEA-12: As admitted, this contention sought to litigate the "human response" factors which might interfere with school staff's performance of responsibilities for evacuating school children.^{13/} LEA has expanded its original contention, however, now to include under Item 1 consideration of "parental/child behavior" and "family decision making patterns." LEA also seeks to litigate under this item the availability or adequacy of the public information brochures to be distributed within the EPZ. All of the matters raised under Item 1 of its newly worded contention are therefore unjustified.

^{11/} There is certainly no basis or "good cause" shown for challenging Applicant's HMM Evacuation Time Estimates Study, which was made available to the parties in May 1984.

^{12/} The Cincinnati Gas & Electric Company (Wm. H. Zimmer Nuclear Power Station, Unit No. 1), ALAB-727, 17 NRC 760, 770 (1983); Carolina Power and Light Company (Shearon Harris Nuclear Power Plant, Units 1 and 2), Docket Nos. 50-400 and 50-401, "Further Rulings on Admissibility of Emergency Planning Contentions" (June 14, 1984) (slip op. at 23) and "Final Set of Rulings on Admissibility of Offsite Emergency Planning Contentions" (August 3, 1984) (slip op. at 49).

^{13/} See Special Prehearing Conference Order at 55 (April 20, 1984).

In Item 2, LEA now asserts that a strictly contractual obligation and nothing less, as part of the teachers' collective bargaining agreement, is necessary to reasonably assure that teachers will not abandon their posts. The Licensing Board admitted this contention solely to litigate "human response" factors and not letters of agreement per se.^{14/} It follows that collective bargaining agreements need not be amended to establish that teachers will perform their obligations in the event of an actual emergency. Item 2 is therefore an impermissible and legally baseless expansion of this contention.

LEA also attempts to establish in Item 3 a nexus between the adequacy of school district buildings for sheltering and the willingness of school staff to remain at their posts. This is also an improper expansion of issues, which finds no basis in the NRC's regulations or NUREG-0654.^{15/} Nor is "post training surveying" or

^{14/} Special Prehearing Conference Order at 55 (April 20, 1984).

^{15/} Under NUREG-0654, Criteria J.9 and 10.m, States and local organizations must establish a capability for implementing protective measures based upon protective action guides and other criteria, and States must establish bases for the choice of recommended protective actions, including "expected local protection afforded in residential units or other shelter for direct and inhalation exposure" (A footnote in the latter criterion cites three reports which may be used in determining the protection afforded).

(Footnote Continued)

"unannounced evacuation and sheltering drills" in schools, as suggested in Items 4 and 5, part of the original contention. In any event, neither is required by the NRC.^{16/}

Finally, Item 6 makes the new and incorrect assertion that school district plans do not provide that trained school staff will accompany evacuated students. Training has been provided and is available on an ongoing basis for school staff.^{17/} Trained school staff will accompany evacuated students and will remain with them at host

(Footnote Continued)

Annex E, Appendix 12, Section 10.2.2.2 states that "any building which is reasonably winter worthy will suffice, with windows and doors tightly closed." The Licensing Board in Shearon Harris, supra, "Further Rulings" (slip op. at 16-18), expressly rejected a contention asserting that the adequacy of buildings for sheltering must be evaluated. A fortiori, there is no need to convince school staff that school buildings will be adequate for sheltering.

^{16/} As to training, see NUREG-0654, Criterion O, which contains no "survey" requirement. Contentions asserting the need for public participation in evacuation drills have been rejected. See Duquesne Light Company (Beaver Valley Power Station, Unit 2), Docket No. 50-412, "Report and Order" (January 27, 1984) (slip op. at 47-50); Duke Power Company (Catawba Nuclear Station, Units 1 and 2), Docket Nos. 50-413 and 50-414, "Memorandum and Order" (September 29, 1983) (slip op. at 7). See generally Waterford, supra, ALAB-732, 17 NRC at 1108.

^{17/} See, e.g., Montgomery County RERP, Annex R, Section III.A; Pottstown School District RERP, Section III. Annual retraining of school staff will be offered. Montgomery County RERP, Annex R, Sections III.D and E.

schools.^{18/} Item 6 is further impermissible because it seeks to litigate "psychological trauma" on the part of students, which is neither a part of the original contention nor a litigable issue. Thus, none of the specified items relates to the originally admitted contention.

Contention LEA-13: This contention relates to planning for children in day care, nursery and pre-school programs. In admitting this contention, the Board stated that "LEA is not contending that the institutions listed in [this contention] be covered by specialized plans, but only that the planning for them be adequate."^{19/} LEA has not, however, addressed itself to the model plan prepared by PEMA, which has been submitted to all licensed nursery and day care centers,^{20/} and which is being submitted to the unlicensed facilities by the Risk Counties.^{21/}

^{18/} See, e.g., Pottstown School District RERP, Sections V.D.2.e.8 and 14.

^{19/} Special Prehearing Conference Order at 61 (April 20, 1984).

^{20/} The model plan is entitled "Radiological Emergency Response Plan for the [Day Care Facility] for Incidents at the Limerick Generating Station." ("Day Care Model Plan"). The model plan was made available to LEA as Discovery 34, Item 32, on July 9, 1984. A copy is attached for the Board's convenience.

^{21/} This procedure was previously known to LEA, but was again explained at the most recent meeting among the parties on August 30, 1984.

Under the model plan, day care facilities will be notified by the Risk Municipalities at the alert stage.^{22/} The day care centers would then notify parents or legal guardians, who would thereby be provided with the maximum amount of time to pick up their children. Under State law, licensed facilities are required to maintain in their records the name of parents or legal guardians to be contacted in an emergency.^{23/} While issuance of the model plan constituted new information at the time, LEA has shown no "good cause" for waiting two months to raise the issue and no litigable basis for challenging the adequacy of these notification procedures. Accordingly, Item 1 should be rejected.

Similarly, no basis is provided in Item 2 to challenge the transportation survey for "unmet needs" sent to day care centers. The model plan directs each facility to determine whether it can meet transportation needs on its own.^{24/} The transportation survey then states that any unmet "special transportation needs" should be identified and reported to the Risk Municipality through the Risk County. Item 2

^{22/} Day Care Model Plan, Sections V.A. and VI.B.3.

^{23/} The model plan directs all such facilities, including unlicensed centers, to keep such information on hand in order that the "parents or contact persons" can be "called to pick up their children." Day Care Model Plan, Section IV.D.

^{24/} Day Care Model Plan, Section IV.F.

therefore lacks any basis because it fails to allege any reason why plan provisions are inadequate. Moreover, the survey has long been known to LEA.^{25/} No "good cause" exists for challenging the survey's adequacy at this late date.

In the general statement of this contention as well as in Items 2 and 3, LEA now wishes to expand the scope of its contention to include "day and overnight camps." It has not demonstrated any reason why such camps should be considered a "special facility population" within the meaning of NUREG-0654, Appendix 4, Section II.^{26/} Also, Item 5 of the contention, asserting that sheltering must be undertaken as a last resort, wholly lacks any regulatory basis.^{27/} Item 6, which asserts that the participation and commitment of preschool staff is essential, states no litigable issue. Thus, Items 1, 2, 3 (in part), 5 and 6 depart from the scope

^{25/} The initial drafts of the Municipal RERP's provided to LEA stated in Attachment F that a "public survey" would be conducted to verify estimates of unmet transportation needs. Current drafts of the Municipal RERP's state in Attachment F that unmet transportation numbers are "based upon public survey data."

^{26/} See Special Prehearing Conference Order at 60-61 (April 20, 1984).

^{27/} See generally NUREG-0654, Criterion J.10.m. While a State might decide to evacuate a particularly vulnerable segment of the population such as pregnant mothers and very young children, there is certainly no basis for doing so by reason of attendance in a day care or nursery center.

of the admitted contentions and improperly seek to inject new issues.

Contention LEA-14: As originally pleaded, this contention contained two allegations: (1) some school bus drivers may have to make repeat trips into the EPZ and some school personnel may have to remain in the EPZ longer than anticipated, such that this staff should be provided with KI and dosimetry supplied to emergency workers; (2) drivers and school staff, as potential emergency workers, should be trained as such.^{28/} It is clear from the Board's admission of this contention that any training provided to school staff would be commensurate with their more limited responsibilities, and would not include any training appropriate for other categories of emergency workers.^{29/} Therefore, Item (b)(1) in the revised contention, alleging a need for training for the treatment of contaminated individuals, is impermissible.^{30/}

^{28/} Special Prehearing Conference Order at 62 (April 20, 1984).

^{29/} In Wolf Creek, for example, the Board agreed that "because the functions of teachers during an evacuation do not entail any decision-making responsibilities or specialized knowledge, no extensive training is required for them." Wolf Creek, supra, "Initial Decision" (slip op. at 23).

^{30/} Also, other kinds of "training" included in the revised contention are beyond the scope of the admitted contention. As discussed in response to revised Contention LEA-12, there is no basis in Item (b)(2)(b)
(Footnote Continued)

Contention LEA-15: Like Contention LEA-12, LEA-15 pertains to "human response" factors, in this instance, for school bus drivers.^{31/} LEA has nonetheless made a wholesale revision of this contention and now pleads new matters relating to communication with and dispatch of bus drivers (Item 1), letters of agreement and employment contracts between bus drivers and their companies (Items 2 and 3),^{32/} familiarity with bus routes and mobilization time (Item 4), transportation from host schools to mass care centers (Item 5),^{33/} consideration of the overall need for bus drivers^{34/}

(Footnote Continued)

for instructing school staff in the adequacy of school buildings for sheltering. Training for dealing with children under "stress conditions" under Item (b)(2)(c) has no basis in any legal requirements and certainly would be part of a teacher's general skills in dealing with fires and other nonnuclear emergencies. Surveys of school teachers to verify their commitment to perform their duties under Item (b)(2)(d) has nothing to do with training. Moreover, this is the kind of "accountability program" LEA expressly abandoned as part of its contention. See Special Prehearing Conference Order at 62 (April 20, 1984).

^{31/} Special Prehearing Conference Order at 55 (April 20, 1984).

^{32/} This raises the same point discussed at page 7, supra, regarding the teachers' collective bargaining agreement. In admitting the contention, the Board expressly declined to include any aspect relating to letters of agreement for bus drivers. Special Prehearing Conference Order at 55 (April 20, 1984).

^{33/} See note 4 and accompanying text, supra.

^{34/} Applicant sees no basis for this new contention. The plans have always been based upon the principle that all persons within the plume exposure EPZ would be
(Footnote Continued)

and adequacy of bus transportation for private school students (this already constitutes an admitted contention under LEA-11) (Item 8). Thus, only Item 6 in revised Contention LEA-15 conforms to the admitted contention.

Contention LEA-22: LEA now attempts to inject two new issues into this admitted contention, which relates to the adequacy of KI supplies and dosimetry for farmers who re-enter the EPZ to tend to livestock. First, LEA seeks to litigate the adequacy of the definitions in the plans for "livestock" and "farmer" (Item 2). Second, LEA seeks to litigate the adequacy and distribution of the informational brochure which will be provided to farmers (Item 3). There is no reason why LEA could not have raised these matters initially if it so desired. Hence, no "good cause" for lateness exists. Also, no basis has been shown to challenge the existing plans by adding further definitions or rewriting the farmers' informational brochure, which presumably would be no different than for other Pennsylvania nuclear facilities.^{35/}

(Footnote Continued)

simultaneously evacuated, whether by public or private transportation. The plans have never utilized buses or drivers on a priority basis or for multiple lifts. See, e.g., Montgomery County RERP, Annex I, Appendix 2, Tab 3 and Appendix 3.

^{35/} As LEA is aware, the adequacy of information to farmers, including the necessity of a separate brochure, was an issue in the Three Mile Island proceeding. See Metropolitan Edison Company (Three
(Footnote Continued)

Contentions LEA-24 and FOE-1: These contentions were admitted "only to the extent they call for planning against the effect traffic congestion in the areas outside the EPZ they name could have on evacuation of the plume exposure pathway EPZ."^{36/} LEA now wishes to expand the contention to "include some information to users of the [Marsh Creek] park as to the alternative routes to be taken so as to avoid the main evacuation routes" ^{37/}

With regard to that aspect of the contention dealing with the Valley Forge National Park, LEA asserts, without any supporting basis, that the HMM Evacuation Time Estimates Study does not take into account Valley Forge traffic. LEA also asserts that certain unspecified assumptions of the Study also "tend to mischaracterize actual impact of traffic in area." This attempt to dispute the HMM Study lacks both basis and specificity,^{38/} and is inexcusably late without

(Footnote Continued)

Mile Island Nuclear Station, Unit No. 1), ALAB-697, 12 NRC 1265, 1279 (1982). No basis is shown for bringing up this issue at this late date.

^{36/} Special Prehearing Conference Order at 74-75 (April 20, 1984).

^{37/} LEA also requests "[p]redistribution of basic suggested route information to residents and employees" along Route 100 south to the Exton Mall. These are further examples of its unauthorized expansion of the contentions to include new issues that lack any legal basis.

^{38/} The general assumptions utilized in preparing the HMM Study are stated at pages 2-1 et seq. None of them is
(Footnote Continued)

good cause. The further allegation of a need to provide notification and traffic routing information to industries in the King of Prussia area is also a late, unjustified expansion of the admitted contention without any basis.

Contention LEA-26: Notwithstanding the explicit ruling of the Licensing Board denying that portion of Contention LEA-26 as proposed which dealt with the installation and testing of the siren system,^{39/} LEA seeks to reargue this issue in Item 1 of the revised contention. This is a flagrant abuse of the Board's procedure for narrowing admitted contentions.

Item 3 is also an impermissible expansion of the admitted contention. Neither as pleaded nor admitted^{40/} did Contention LEA-26 raise any "human response" factors regarding fire company personnel who would perform route alerting. By contrast, the Board admitted two contentions raising such concerns, treating them in conjunction,^{41/} but made no such ruling with respect to route alerting personnel.

(Footnote Continued)

specifically challenged by LEA. These assumptions are basically the same which were utilized for the Susquehanna Evacuation Time Estimates Study, which was also prepared by HMM Associates.

^{39/} Special Prehearing Conference Order at 85 (April 20, 1984).

^{40/} Id. at 86.

^{41/} Id. at 55.

Similarly, Item 4 now seeks to litigate mobilization time for route alerting personnel. The admitted contention pertains solely to "whether there will be enough resources for route-alerting," i.e., "that there are enough personnel and vehicles for route-alerting, or else that the mechanisms for acquiring those resources exists."^{42/} LEA makes no showing that resources are a function of mobilization. If the sirens were to fail, each fire department in affected sectors would be notified by the County or Municipal Emergency Operations Center.^{43/} Inasmuch as all necessary route alerting resources and personnel will be implemented on the basis of this communications network, whose adequacy is not at issue, LEA has demonstrated no mobilization issue to be litigated.

Contention LEA-27: Despite LEA's acknowledgement that the two Camp Hill Schools need not be covered by specialized plans,^{44/} it now contends in Item 1 that "[n]o written plan has been developed for either facility." The remaining items assert, in effect, that planners must speculate

^{42/} Id. at 86.

^{43/} See Montgomery County RERP, Annex C, Appendix 5, page C-5-1; Chester County and Berks County, Annex C, Appendix 6, page C-6-1. Any siren failure would be indicated by a feedback mechanism which relays a signal to the County Communications Center. See Risk County RERP, Annex C, Appendix 1, page C-1-2.

^{44/} Special Prehearing Conference Order at 61 (April 20, 1984).

whether school staff will not cooperate in implementing protective measures for the mentally retarded individuals at these two schools which have been developed under the Municipal RERP's and implementing procedures.^{45/} Such assumptions were not part of the admitted contention and should not be inserted in the contentions now.

Moreover, such speculation has no legal basis under the Commission's regulations or NUREG-0654. There is no basis for assuming that Camp Hill school personnel will not implement planning procedures which have been developed for the protection of individuals within their care and custody in an actual emergency. Under the NRC's emergency preparedness regulations, Applicant need only show that adequate plans, capable of implementation, provide reasonable assurance of the health and safety of those individuals in the event of a radiological emergency at Limerick. Each item in

^{45/} Both schools responded to the transportation needs survey and their reported need for bus transportation has been included in both plans. Their requirements are reflected in overall transportation needs. See East Nantmeal and West Vincent RERP's, Attachment 0. Notification by the municipalities for these schools is provided throughout the East Nantmeal and West Vincent RERP Implementing Procedures, beginning at page A-3.

the revised contention is therefore invalid,^{46/} except transportation needs under Item 3.^{47/}

Contention LEA-28: Under Item (b) (second paragraph), LEA seeks to raise the issue of training for PennDOT personnel assigned to clear evacuation routes which are State roads. Training was not an aspect of the admitted contention, nor was it raised by LEA initially. Obviously, PennDOT employees know how to clear roads. It makes no difference whether vehicles blocking highways are evacuating from a radiological or nonradiological accident.^{48/}

II. The Licensing Board Should Dismiss any Contention for Which LEA Does not Proffer Direct Testimony.

On the basis of the various pleadings, reports and documents which have been served upon it by Applicant, the

^{46/} As discussed above with respect to revised LEA-12 at note 15 and accompanying text, supra, Item 4 of this contention is improper because no evaluation of the adequacy of buildings for sheltering must be undertaken.

^{47/} As noted, transportation needs have been covered under the public survey and responses by the schools. Nonetheless, this concern was part of the original contention. On the other hand, Applicant does not understand what specific "telecommunications" needs are being alleged in Item 3. Applicant is unaware of any regulatory standard or case precedent establishing a requirement for communications with such private facilities by other than commercial telephone.

^{48/} As with Contentions LEA-12 and 15, Applicant sees no basis to litigate alleged "employee contractual limitations" under Item (b) (second paragraph). In any event, this is another unauthorized expansion of the admitted contention.

Licensing Board is well aware that extensive, ongoing efforts have been made by the Pennsylvania Emergency Management Agency and the Federal Emergency Management Agency, as well as Applicant, to explain to LEA how its various concerns expressed in the admitted contentions have been successfully resolved. As the Board noted at several points in its April 20, 1984 Order admitting LEA's contentions, it appeared at that time that many of the admitted issues were close to resolution. The Board therefore presumed, correctly in Applicant's view, that ongoing negotiations could resolve a number of outstanding differences. This, however, has not been the case.

While a party is certainly not required to settle a contention if it believes that some litigable issue exists, it cannot refuse a licensing board's directive to refocus and narrow the issues it has raised. In other words, participation in an NRC licensing proceeding entails the obligation of a party to assist in "making the system work."^{49/} Significantly, many of LEA's contentions were admitted to the proceeding on the understanding that further developments in emergency planning preparedness would enable the intervenor to make such refinements seasonably. Indeed, LEA's representative at that time, stated that she expected

^{49/} Consumers Power Company (Midland Plant, Units 1 and 2), ALAB-270, 1 NRC 473, 476 (1975).

several contentions would be withdrawn on that basis (e.g., Tr. 7647).^{50/}

Unquestionably, a licensing board may impose restrictions upon a party which fails to follow a Board's directions and to cooperate in the development and presentation of the issues in an orderly fashion. A licensing board is plainly vested with authority under its broad powers to shape the course of the proceeding, develop the issues and limit the evidence to probative, relevant matters.^{51/} Inasmuch as LEA has failed to comply with the Board's order, which sought to shape the issues and develop their meaningful presentation, the Board can only conclude that LEA either does not know or cannot state with specificity what it really wishes to litigate.

Given LEA's failure to comply with the Board's order, together with the posture of the case and the existing time frame, the Board should dismiss any contentions for which LEA does not proffer direct, written testimony. This will

^{50/} More recently, LEA restated its position that "[i]t is in the interests of all parties to this proceeding to avoid unnecessary litigation." Answer of LEA to the NRC Staff's Motion for Reconsideration at 2 (September 11, 1984).

^{51/} See generally Offshore Power Systems (Floating Nuclear Power Plants), ALAB-489, 8 NRC 194, 201-08 (1978); Public Service Company of Indiana, Inc. (Marble Hill Nuclear Generating Station, Units 1 and 2), ALAB-459, 7 NRC 179, 188 (1978); Consumers Power Company (Midland Plant, Units 1 and 2), ALAB-468, 7 NRC 465, 468 (1978).

have the salutary effect of requiring LEA to focus on specific issues rather than the generalities contained in its admitted contentions, which the Licensing Board understandably assumed would be respecified at a later date once further information became available. Moreover, it would spare the Board and parties unnecessary hearing time where LEA has failed to demonstrate any litigable issue by way of its own presentation.^{52/} Moreover, without prepared, written testimony by LEA, neither PEMA, FEMA, the NRC Staff nor the Applicant will have fair and adequate notice, as contemplated by the regulations, of the actual points they must be prepared to address. At most, they could only offer general testimony as to the basic elements of the plans, how they were developed, and how they would be implemented in an actual emergency.

Such action by the Board would be consistent with that taken by other licensing boards in similar circumstances. In the Shoreham proceeding,^{53/} the Licensing Board had

^{52/} In this regard, the Licensing Board should consider the voluminous record developed to date on offsite emergency plans. These plans, implementing procedures and related documents and correspondence demonstrate a prima facie ability to protect the public health and safety in the event of a radiological emergency at Limerick. Hence, the failure of LEA to make its issues more specific, as required by the Board's August 15 Order, is even more egregious.

^{53/} Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), LBP-82-115, 16 NRC 1923 (1982).

issued an order directing the parties to conduct their initial cross-examination on written testimony by means of prehearing depositions. The Board utilized this mechanism, like the requirement to refocus and narrow contentions here, to expedite the proceeding and reduce actual hearing time before the Board.^{54/} Upon the refusal of intervenors to comply with its order, the Board dismissed their contentions with prejudice.^{55/}

Conclusion

For the reasons discussed more fully above, LEA's revised contentions constitute a major departure from the admitted contentions. Moreover, the revised expansions demonstrate that LEA has done nothing to narrow and refocus the issues which have actually been admitted to litigation. To date, Applicant and the concerned governmental entities have had numerous formal and informal contacts with LEA to answer any questions and to explain how the emergency plans and procedures will be implemented.

Despite being provided with extensive, detailed information as promptly as possible, LEA has shown no willingness to resolve or even narrow any of its issues rephrased and

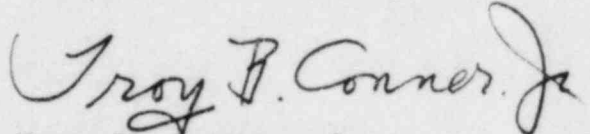
^{54/} Id. at 1925-26, 1929-30.

^{55/} See also Wisconsin Electric Power Company (Point Beach Nuclear Plant, Unit 1), LBP-82-108, 16 NRC 1811 (1982), aff'd, ALAB-719, 17 NRC 387 (1983) (failure to comply with order requiring attendance at Special Prehearing Conference).

submitted on January 31, 1984. Rather, it has now taken a major step backwards. The Board should take this into account in rejecting the expanded aspects of LEA's revised contentions under the terms of its orders and the Commission's rules for admitting late-filed contentions. Finally, the Board should dismiss any contentions or parts thereof for which LEA fails to proffer direct, prepared testimony.

Respectfully submitted,

CONNER & WETTERHAHN, P.C.

A handwritten signature in cursive script that reads "Troy B. Conner, Jr." The signature is written in dark ink and is positioned above the typed names of the signatories.

Troy B. Conner, Jr.
Robert M. Rader

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September 13, 1984

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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 Limerick Ecology Action's Respecification of Offsite Emergency Planning Contentions," dated September 13, 1984 in the captioned matter have been served upon the following by deposit in the United States mail this 13th day of September, 1984:

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OFFICE OF REGULATORY
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RADIOLOGICAL EMERGENCY RESPONSE PLAN

FOR THE

(Name of day care facility)

FOR INCIDENTS AT THE

LIMERICK GENERATING STATION

Adopted: _____

(Date)

This plan has been prepared by the _____ of the
(director/owner)
_____ for response to an
(name of facility)
incident at the Limerick Generating Station. This plan is in consonance
with the _____ Radiological Emergency Response Plan and
(name of municipality)
is effective on this date.

(Date)

(Signed)

(Typed Name)

(Title)

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I. REFERENCES

- A. Pennsylvania Emergency Management Act of 1978, P.L. 1332.
- B. _____ Radiological Emergency Response Plan.
(Name of municipality)
- C. Day Care Service for Children Regulations: Child Day Care Centers
Group Day Care Homes

II. PURPOSE

The purpose of this plan is to be prepared for response to a serious incident at the Limerick Generating Station to ensure the safety of the children enrolled in the _____
(Name of facility)

III. DEFINITIONS

- A. Limerick Generating Station is referred to in this plan as LGS.
- B. Emergency Planning Zone (EPZ) - A generic area of approximately ten miles radius around a fixed nuclear facility. Inside the EPZ the populace must be prepared to take protective actions in response to a serious incident at the fixed nuclear facility to include sheltering and evacuation.
- C. Fixed Nuclear Facility Incident - An event or condition at a fixed nuclear facility which could result in impact on public health or safety. Four incident classifications have been identified from the least serious to the most serious.
Descriptions of the four emergency classifications are:
 - 1. Unusual Event - Event(s) are in process which indicate a potential degradation of the level of safety of the plant. No releases of radioactive material requiring

off-site response or monitoring are expected unless further degradation of safety systems occur.

2. Alert - Event(s) are in process or have occurred which involve an actual or potential substantial degradation of the level of safety of the plant. Any radioactive releases are expected to be limited to small fractions of the EPA Protective Action Guideline exposure levels.
 3. Site Emergency - Event(s) are in process or have occurred which involve actual or likely major failures of plant functions needed for protection of the public. Any radioactive releases are not expected to exceed EPA Protective Action Guideline exposure levels except near the site boundary.
 4. General Emergency - Event(s) are in process or have occurred which involve actual or imminent substantial core degradation or melting with potential for loss of containment integrity. Releases can be reasonably expected to exceed EPA Protection Action Guideline exposure levels off-site for more than the immediate site area.
- D. Protection Action Guide (PAG) - A preestablished projected radiation dose to individuals which warrants protective action.
- E. Protective Action - An action taken to avoid or reduce a projected dose of radiation.
- F. Projected Dose - An estimate of the radiation dose which affected individuals could potentially receive if protective actions are not taken.

- G. Sheltering - Action taken to take advantage of the protection against radiation exposure affected by remaining indoors, away from doors and windows.

IV. POLICY GUIDELINES

- A. In the event a radiological emergency should occur during the time the _____ is _____ (Name of facility) in session, the director or designated representative, will implement this plan and take such other actions as might be required for the safety of the children.
- B. This plan will be reviewed and updated annually.
- C. This plan will be used to orient the staff and faculty.
- D. If an incident reaches the level of Site Emergency, parents or contact persons will be called to pick up their children. When the _____ is emptied of all children, (Name of facility) it will be closed until the emergency is ended.
- E. Should an evacuation of any children be required, sufficient teachers, or support staff will accompany the children to provide adequate teacher-to-child ratios. Children will be evacuated to _____ which is (name of host day care facility and address) outside the emergency planning zone.
- F. Transportation required for evacuation is the responsibility of the _____ (Name of facility)
- G. Evacuated children will remain the responsibility of the _____ (Name of facility) until the children are picked up by their parents or other authorized persons.

- H. Children will be tagged for identification purposes (see Appendix 1).
- I. Record of costs will be maintained and documented as a basis for claims.

V. NOTIFICATION PROCEDURES

- A. The _____ director will receive emergency information from the _____
(Name of facility) (Name of municipality)
The information will be logged, the staff will be informed, and the host facility will be notified.
- B. In the event of a Site Emergency or General Emergency, parents or emergency contact persons will be notified to pick up their children. At the option of the director, this action may be moved up to the Alert classification.
- C. The local Emergency Broadcast Station (EBS) will be monitored for additional information and instructions. The EBS station is _____
(call letters and frequency)

VI. CONCEPT OF OPERATIONS

- A. Unusual Event. No action required, and no notification will be received.
- B. Alert.
 - 1. Alert all staff members.
 - 2. Notify host facility.
 - 3. Notify emergency contact persons and advise them of the situation. Alternatively, at the discretion of the director, the emergency contact persons may be notified to pick up their children.

4. Identify transportation needs.
5. Notify transportation resources.
6. Monitor EBS stations.

C. Site Emergency

1. Alert all staff members.
2. Notify host facility.
3. Notify emergency contact persons to pick up their children.
4. Transportation resources are assembled if needed.
5. Prepare to take shelter or evacuate, if necessary.

Monitor EBS station.

6. After all children are picked up, close the school and report status to the _____
(name of city, borough or township)
at _____
(telephone number)
7. Remain closed until notified that the incident is terminated.

D. General Emergency

1. Accomplish all of the actions shown above for Site Emergency.
2. Prepare to take shelter or evacuate, if necessary.

E. Take Shelter Actions

In the event that an order is received to take shelter, the following actions will be taken:

1. Notify all staff members.
2. Close all outside doors, windows and vents to heating or air conditioning systems.
3. Move children to the most interior part of the building, preferably in the basement.
4. Ensure the ready availability of drinking water, snacks, and first aid supplies.

F. Evacuation Actions

In the event that an order is received to evacuate, the following actions will be taken:

1. Notify all staff members.
2. Notify host facility.
3. Tag children and prepare them for movement.
4. Follow designated main evacuation routes out of the emergency planning zone, then proceed to host facility.
See attached strip map, Appendix 2.
5. Monitor EBS station.
6. Report departure time to municipal emergency operations center.
(telephone number)
7. At the host facility, arrange for the safe transfer of the children to their parents or designated emergency contact persons.
8. When the facility is evacuated, post the location of the site to which children have been evacuated.

G. Children Pick Up

Parents or authorized persons must present identification (Social Security Card, Driver's License, etc.) to the staff personnel and sign a release form.

VII. COMMUNICATION WITH PARENTS

Parents of all children will be fully informed of this plan.

See Appendix 3.

VIII. DISTRIBUTION

This plan is distributed as follows:

1. Office of the Director of the day care center/group day care home
2. To be available for facility staff
3. Department of Public Welfare Regional Office
4. _____
(Name of Emergency Management Coordinator of city, borough or township
in which the center or home is located.)
5. _____ Emergency Management Agency.
(Name of county in which the center or
home is located)
6. _____
(Name of host facility)

APPENDIX 1

IDENTIFICATION TAG INFORMATION

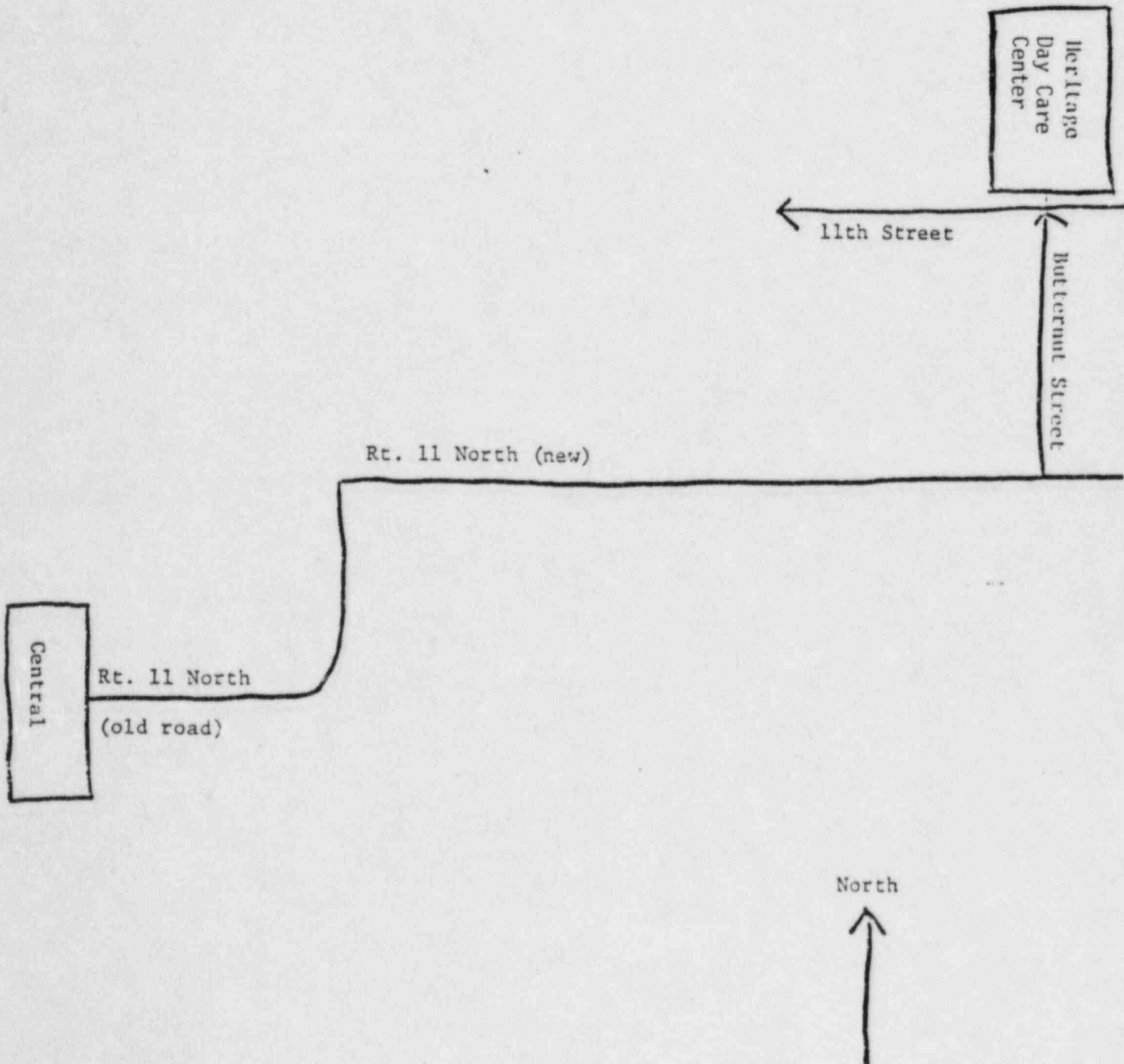
Child's Name	Birthdate
Address	
Mother's Name - or Legal Guardian	Telephone No. (Home)
Address	
Business Address	Telephone No. (Business)
Father's Name - or Legal Guardian	Telephone No. (Home)
Address	
Business Address	Telephone No. (Business)
Name and Address of Person to be Contacted in Emergency (If Parents Are Not Available)	Telephone No.
Name and Address of Child's Physician or Source of Medical Care	Telephone No.
Special Disability (If Any)	
Any Special Medical or Dietary Information Necessary for Management in an Emergency Situation (Allergies, Medications, Special Conditions)	
Any Additional Information on Special Needs of the Child	
Health Insurance Coverage for Child Under Family Insurance Policy or Medical Assistance Benefits (If Applicable)	
Person(s) Designated by Parent(s) to Whom the Child May be Released	

NOTE: If the emergency contact information required by day care center/
group day care home regulations is in a form that can be pinned to
the child, this can be used as the Identification Tag.

APPENDIX 2

STRIP MAP

Note: This is an example of a strip map for purposes of illustration only.



APPENDIX 3

(Name of day care facility)

(Address)

Dear Parent:

In the event of an incident at the Limerick Generating Station requiring response on the part of the population residing here, the _____ has plans for the protection of your child.
(Name of facility)

The purpose of this letter is to inform you about the essential information contained in our plan.

There are four emergency classifications for incidents at the Limerick Generating Station. They are (1) Unusual Event, (2) Alert, (3) Site Emergency, and (4) General Emergency.

An Unusual Event poses no danger and requires no action to protect your child.

An Alert poses no danger off the site of the Limerick Generating Station, but the incident could become worse. During an Alert we shall begin our telephone calls to notify you or your designated emergency contact person and our prearranged host facility of the situation. Based upon information available at that time, we might decide to exercise an option to begin closing the _____ In that event, you or your designated contact person will be called and asked to pick up your child.
(Name of facility)

A Site Emergency still poses no danger except possibly near the Limerick Generating Station site boundary, but the situation is worsening. Consequently, at Site Emergency we shall call you or your designated emergency contact person to pick up your child. When all children have been picked up the _____ will be closed until the
(Name of facility)
emergency is over.

A General Emergency could lead to sheltering or evacuation of the population. If there are any children still here when an order to take shelter or to evacuate is received, we are prepared to comply. If an evacuation is necessary we shall evacuate the children to _____
(Name
of host facility) _____ where you can pick
(address of host facility)
up your child. This host facility is located outside of the emergency planning zone, and it is a safe location for your child until you or your designated emergency contact person can arrive there. Once an evacuation order is made, please go to the host facility, instead of attempting to pick up your child here.

Parents or the designated emergency contact person will be required to provide proper identification at the time of pick up and to sign a release form.

Please be assured that in the event of an incident at the Limerick Generating Station we are prepared to protect your child.

As you know, in the event of an incident at the Limerick Generating Station you should stay tuned to our local EBS radio station

Page Three

for the latest information and instructions.

If you have any questions about our plan, please call us.

Cordially,

(Signed)

(Typed name)

(Title)