

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

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Before Administrative Judges:

James L. Kelley, Chairman  
Dr. James H. Carpenter  
Glenn O. Bright

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In the Matter of  
  
CAROLINA POWER & LIGHT COMPANY  
and  
NORTH CAROLINA EASTERN MUNICIPAL  
POWER AGENCY  
  
(Shearon Harris Nuclear Plant  
Units 1 and 2)

Docket Nos. 50-400-0L  
50-401-0L

(ASLBP No. 82-472-03 0L)

October 4, 1984

RULINGS ON SPECIFICATION OF EDDLEMAN  
OFFSITE EMERGENCY PLANNING CONTENTION 215  
AND ON THE ADMISSIBILITY OF  
EDDLEMAN CONTENTIONS ON THE PUBLIC INFORMATION BROCHURE

Specification of Contention 215

In our June 14, 1984 Order, the first on Intervenor Eddleman's offsite emergency planning contentions, we admitted Contention 215, which alleged that there were "numerous" conservatisms in the Applicants' evacuation time estimates, and that those conservatisms could make the estimates too inaccurate to be a sound basis for choosing between sheltering and evacuation in a general emergency. However, the contention mentioned only 2 conservatisms, and mentioned these only in rather vague terms. Therefore, we ordered that Mr. Eddleman specify the

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conservatisms in the estimates he wanted to litigate, and we invited other parties to comment on the specification. Board Order of June 14, 1984 at 24. On June 29, 1984, Mr. Eddleman filed a list of four alleged conservatisms, and on July 9, 1984, the Applicants filed comments on the four, arguing that the Contention should be rejected.

We admit into litigation two of the alleged conservatisms. Of the other two, one is redundant and the other points to what is not a conservatism at all.

The first alleged conservatism is the assumption in the estimates that in an evacuation of the plume EPZ all auto-owning permanent residents of the plume EPZ would evacuate from home. Estimates at 2-2. As the estimates themselves point out, this assumption leads to some double counting, since in scenarios which involve evacuation of work places, schools, or recreation areas, the estimates count twice permanent residents of the plume EPZ who also work or go to school there, or who would be in a recreation area to be evacuated: once as members of the population of permanent residents, and again as members of the work, school, or recreation population. See the estimates at 3-3 and 3-6. Thus, the assumption of evacuation from home leads first to an over-estimation of the number of vehicles needed for evacuation, and from there to an overestimation of evacuation time.

We admit this first allegation. It is specific and has a firm basis in the estimates. The Applicants' reply--that this double

counting "simulates implicitly, by adding vehicles to the evacuation routes, the traffic friction on the network due to travel to residences prior to actual evacuation" (Applicants' Comments at 5)--goes more to the merits of the Contention than to admissibility.

The second alleged conservatism is the assumption that each household will evacuate in one and only one vehicle. See the estimates at 2-2 to 2-3. This assumption is not litigable under Contention 215, for it is not conservative. As the Applicants point out, any inaccuracy caused by the assumption would tend to underestimate the number of vehicles needed for evacuation. This possible underestimation is itself the subject of an admitted contention, Intervenor Wilson's Contention 12(b)(2).

The third alleged conservatism in the estimates is their assumption that the evacuation simulations can treat households without autos as households with autos. This assumption too leads to an overestimation of the number of vehicles required for evacuation. See the estimates at 3-2 to 3-3. We admit this third allegation. Like the first, it is specific and based in the estimates. Again, the Applicants' comments go more to merits than admissibility. The Applicants argue that the assumption provides for trips to pick up permanent residents who do not own cars: "traffic friction" again. The Applicants claim that throwing this assumption out would tend to underestimate vehicle demand. They also claim, but do not demonstrate, that throwing the assumption out reduces the simulated evacuation times by perhaps 10 minutes. The

Applicants call this third assumption "slightly conservative, but entirely reasonable," and contrast it with the second assumption discussed above, which they call "unrealistically conservative." It will be one of the aims of litigation of Contention 215 to determine whether "slightly, but reasonably, conservative" is a good standard by which to judge conservatisms.

The fourth and last alleged conservatism is the assumption in all the scenarios that every household in the plume EPZ always has at least one person in it. See the Estimates at 1-3 to 1-4. We reject this fourth allegation. The assumption it is aimed at is either subsumed in the first conservatism we discussed, or it is not a conservatism. If a significant number of households would be empty at the start of an evacuation, then the assumption leads to the double-counting discussed above. On the other hand, if, on average, each household were to have more than one person in it at the start of an evacuation, the assumption might lead to an underestimation of vehicle demand.

We do not understand the issue in Contention 215 to be whether the Estimates may contain conservatisms. Such might prove useful once a decision to evacuate had been made. Rather, the issue is whether they weaken the basis for such a decision. We see no objection to the estimates' containing clearly marked conservatisms, as long as the estimates also contain results based on more realistic assumptions, or

assess the effects of the conservatisms. See Commonwealth Edison Co. (Byron, Units 1 & 2), LBP-84-2, 19 NRC 36, 263 (1984).

Contentions on the Brochure

In our August 3, 1984 "Final Set of Rulings on Admissibility of Offsite Emergency Planning Contentions. . . .", we set August 10, 1984 as the date by which any contentions on the newly available draft form of the Shearon Harris emergency public information brochure were to be filed. Mr. Eddleman filed 23 such contentions on August 10, 1984. The Applicant and the NRC Staff responded on August 28 and August 30, 1984, respectively. We now rule on these contentions, admitting, for the reasons given below, only part of Contention 227-S.

Of course, Mr. Eddleman's contentions must meet the requirement in 10 C.F.R. § 2.714(b) that the bases for each contention be set forth with reasonable specificity. Contrary to the opinions of the Applicants and the Staff (see, e.g., Applicant's Response at 6, and Staff's Response at 15-16, 21), we think Mr. Eddleman generally has met this requirement. To be admitted, contentions filed "late" as these have been must also be assessed by balancing the factors set forth in 10 C.F.R. § 2.714(a)(1). We agree with the Staff, the one party which addressed these factors, that, because Mr. Eddleman filed these contentions promptly after the brochure was first made available to him, and because his interest in the brochure will not be represented by any



other party in a trial-like setting, on balance, a consideration of the factors in § 2.714(a)(1) does not weigh against admission of the contentions.

Though these latest of Mr. Eddleman's contentions pass muster under § 2.714(a)(1) and (b), we reject them--all but part of one--on other grounds. During the prehearing conference of May 1-2, 1984, we said we would not act merely as editors of the brochure and would admit only contentions which argued plausibly that there were gross inadequacies in the brochure. Tr. 829. We relied there on two principles: first, that the details of such documents are not amenable to litigation; and second, that excessive detail in a brochure can diminish its usefulness. On both points, we followed the majority of the relatively small number of licensing boards which have considered the contents of emergency information brochures. ". . .[W]e view ourselves as responsible only for seeing that necessary facts . . . are communicated, that there are no serious errors detracting from the credibility of the document, and that there are no serious omissions from the distributed material. We are not censors . . . ." Consumers Power Co. (Big Rock Point), LBP-82-60, 16 N.R.C. 540, 544 (1982). Cf. Louisiana Power and Light Co. (Waterford Unit 3), ALAB-732, 17 N.R.C. 1076, 1107 (1983) (licensing hearings not to be bogged down in litigation about details of implementing procedures). As to the usefulness of detail, an earlier Board noted that: "Emphasis on detail may defeat the purpose of a public information program. We believe this to be especially true for

printed material aimed at providing information to be read and interpreted rapidly during an emergency situation."

Metropolitan Edison Co. (Three Mile Island, Unit 1), LBP-81-59, 14 N.R.C. 1211, 1521 (1981). See also Big Rock, 16 N.R.C. at 544-45.

With two exceptions, all of Mr. Eddleman's contentions either propose rather close editings--with the focus on minor matters of arrangement, syntax, and diction--or insist on a level of detail either unnecessary or best reserved for instructions issued at the time of an emergency.\* We admit into litigation part of Contention 227-S, in the following revised form:

The description of radiation omits any mention of specific harmful health effects--genetic damage, cancer, and other diseases. This non-information is misleading and could lead to inappropriate actions. Persons who don't know risks may underestimate them.

The Applicants and the Staff assert that the regulations do not require that the brochure contain "a detailed program on the health effects of ionizing radiation" (See, Applicant's Response at 38 (quoting Three Mile Island, 14 N.R.C. at 1522)), or "a course in radiation biology" (Staff's Response at 26 (quoting id. at 1525)). We agree. However, we read 227-S simply to be asking that the brochure give an

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\* Both the Applicants and the Staff also argue that many of the proposed contentions amount to challenges to the regulations and therefore should have been accompanied by petitions for waiver and other papers required by 10 C.F.R. § 2.758. See, e.g., Applicant's Response at 7, and Staff's Response at 21. We disagree. Generally speaking, the language of the applicable regulations, and even of the related guidance in NUREG-0654, is broad enough to be the grounds of not unreasonable differences of opinion on what the regulations require when applied to the public information brochure.

accurate indication of what could be at stake in an emergency. In its present form, the brochure says only that radiation could be harmful, but not how harmful. We refer the parties to Big Rock, where the board was also concerned that the brochure be credible about possible consequences of radiation. That Board presided over the parties' agreement on a specification of the Big Rock brochure's discussion of health effects. See Big Rock, 15 N.R.C. at 544-46, esp. 545-46. We encourage the parties to come to a similar agreement on the Shearon Harris brochure. See also Duke Power Co. (Catawba, Units 1 & 2), LBP-84-37, 20 N.R.C. \_\_\_, slip op. at 19 (September 18, 1984).

By way of summary, we follow the Staff's helpful classification of the contentions in saying that Contentions 227-C, -D, -E, -G, -H, -L, -Q, and -W represent merely proposed editings of the text, not litigable contentions. The remaining contentions (except the admitted part of -S and all of -O) propose that the brochure contain more details, details which at best would improve the brochure only slightly, and might well destroy its usefulness. Contention 227-O, on the clarity of the brochure's EPZ maps, which are not yet available, is premature.

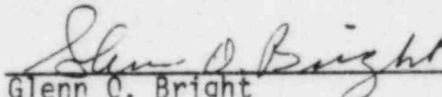
Discovery on Respecified Contention 215  
and Contention 227-S

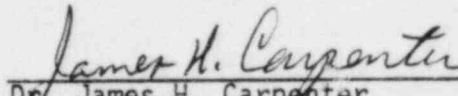
Discovery on Contention 215 will close on January 4, 1985. We see no need for discovery on Contention 227-S. It raises no complex and

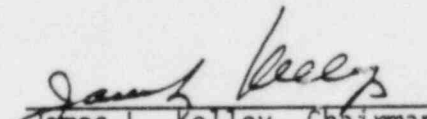


controversial safety or environmental issue but is solely about how explicit the brochure ought to be about health effects which all agree could be caused by a radiological emergency at Shearon Harris.

THE ATOMIC SAFETY AND  
LICENSING BOARD

  
Glenn C. Bright  
Administrative Judge

  
Dr. James H. Carpenter  
Administrative Judge

  
James L. Kelley, Chairman  
Administrative Judge

Dated at Bethesda, Maryland  
this 4th day of October, 1984.