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UNITED STATES OF AMERICA ⁸⁵ JAN -4 A10:39
 NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)

CAROLINA POWER & LIGHT COMPANY)
 AND NORTH CAROLINA EASTERN)
 MUNICIPAL POWER AGENCY)

Docket No. 50-400 OL

(Shearon Harris Nuclear Power Plant))

APPLICANTS' MOTION FOR SUMMARY DISPOSITION OF
EDDLEMAN CONTENTION 240

I. INTRODUCTION

Pursuant to 10 C.F.R. §2.749 of the Nuclear Regulatory Commission's Rules of Practice, Applicants Carolina Power & Light Company and North Carolina Eastern Municipal Power Agency hereby move the Atomic Safety and Licensing Board for summary disposition in Applicants' favor of Eddleman Contention 240. For the reasons explained herein, Applicants respectfully submit that there is no genuine issue as to any fact material to this contention and that Applicants are entitled to a decision on this contention as a matter of law.

In support of this Motion, Applicants rely upon the attached Affidavit of Mark Scott In Support of Applicants' Motion for Summary Disposition of Eddleman Contention 240, Affidavit of Jesse T. Pugh, III In Support of Applicants' Motion for Summary Disposition of Eddleman Contention 240, Applicants' Statement of Material Facts As To Which There Is No Genuine Issue To Be Heard on Eddleman Contention 240, Applicants' Memorandum of Law In Support of Motions for Summary Disposition on Emergency Planning Contentions, and the pleadings and discovery in this proceeding regarding Eddleman Contention 240.

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II. BACKGROUND

Eddleman Contention 240 was initially advanced in "Wells Eddleman's Contentions on the Emergency Plan (2d Set)" (April 12, 1984). Eddleman 240 was admitted as a contention in this proceeding in the Board's "Memorandum and Order (Final Set of Rulings on Admissibility of Offsite Emergency Planning Contentions, Ruling on Petition for Waiver of Need for Power Rule, and Notice of Upcoming Telephone Conference Call)" (August 3, 1984) at 7-10. In its August 3, 1984 order, the Board did not specify the precise verbiage of Eddleman 240. The Applicants, Mr. Eddleman, and the NRC Staff then entered into a stipulation codifying certain admitted contentions. See "Joint Stipulation Codifying Certain Admitted Contentions" (October 12, 1984).¹ As stipulated by the parties and subsequently approved by the Board, Eddleman 240 contends:

What agency of Chatham County government is responsible for the decontamination of evacuees at the Chatham County Shelters? and (2) Which emergency response organizations are assigned the responsibility of providing support for the decontamination of evacuees?

Applicants have served one set of interrgatories and request for production of documents on Mr. Eddleman on the subject of Eddleman 240. See "Applicants' Emergency Planning Interrogatories and Request for Production of Documents to Intervenor Wells Eddleman (Second Set)" (October 5, 1984), at 8-9. "Wells Eddleman's Response to Applicants' 2d Set of E Planning Interrogatories" was filed October 30, 1984. Mr. Eddleman has served two sets of interrogatories on the Applicants on the subject of Eddleman 240. See "Wells Eddleman's General Interrogatories to Applicants Carolina Power & Light, et al. (11th Set)" (August 31, 1984), at 10; and "Wells Eddleman's Second Round Interrogatories and Request for Production of Documents to CP&L and NC/County Emergency Planners" (October 8, 1984), at 2. "Applicants' Response to Wells

¹In their "Joint Motion for Approval of Stipulation Codifying Certain Admitted Contentions" (October 12, 1984), the Applicants, Mr. Eddleman, and the NRC Staff requested Board approval of the verbiage of Eddleman 240. On December 6, 1984, the Board granted the Joint Motion of the parties. See "Order Approving Joint Stipulation Codifying Certain Admitted Contentions" (December 6, 1984).

Eddleman's General Interrogatories to Applicants' (11th Set)" was filed October 1, 1984;² and Applicants' Response to Wells Eddleman's Second Round Interrogatories and Request for Production of Documents to CP&L and NC/County Emergency Planners on Contentions 57-C-7 and 240" was filed October 22, 1984. Mr. Eddleman has served two sets of interrogatories on the NRC Staff and FEMA on the subject of Eddleman 240. See "Wells Eddleman's Interrogatories to NRC Staff and FEMA (6th Set)" (August 31, 1984), at 5; and "Wells Eddleman's General Interrogatories and Interrogatories and Request for Production of Documents to FEMA/NRC Staff" (October 8, 1984), at 1. "FEMA Response to Interrogatories Dated August 31, 1984 Propounded by Wells Eddleman" was filed September 28, 1984; and "NRC Staff and FEMA Response to Wells Eddleman's General Interrogatories, Interrogatories and Request for Production of Documents Dated October 8, 1984" was filed October 25, 1984. The NRC Staff/FEMA did not file any discovery requests on the subject of Eddleman 240. The last date for filing discovery on the contention was October 8, 1984. Discovery on this contention is, therefore, complete.

Eddleman Contention 240 is classified as an emergency planning contention to be addressed in the hearings scheduled to commence June 18, 1985. Written direct testimony on the contention is scheduled to be filed June 3, 1985. Further, the Board and the parties have established January 14, 1985 as the last day for filing summary disposition motions on this contention. Thus, the instant motion is timely, and Eddleman Contention 240 is ripe for summary disposition.

III. APPLICABLE LAW

The well defined standards applicable to motions for summary disposition under 10 C.F.R. §2.749 are discussed in detail in Applicants' Memorandum of Law In Support of

²Replacement page 8 of "Applicants' Response to Wells Eddleman's General Interrogatories to Applicants (11th Set)" was provided to the Board and the parties by letter dated October 3, 1984.

Motions for Summary Disposition on Emergency Planning Contentions filed in this proceeding on October 8, 1984. Applicants rely upon the discussion therein, which is incorporated by reference, and upon the discussion herein regarding the application of those standards to Eddleman Contention 240.

IV. ARGUMENT

A. The Questions Raised By the Licensing Board in Admitting Eddleman Contention 240 Have Been Answered and the ERP Will be Amended to Provide Additional Information on Decontamination Responsibilities.

The Licensing Board admitted Eddleman Contention 240 only for the purpose of resolving the question of what agency of the Chatham County government is responsible for decontamination of evacuees in that county and what emergency organizations are responsible for providing support for decontamination of evacuees in each of the four counties in the plume exposure EPZ.³ The Board's Order states that "Perhaps all that is needed to answer these questions is authoritative clarification of the relevant sections of the ERP [North Carolina Emergency Response Plan in Support of the Shearon Harris Nuclear Power Plant]." August 3, 1984 Memorandum and Order, supra at 10. The attached Affidavits of Mark Scott and Jesse T. Pugh, III provide such an "authoritative clarification." In addition, Mr. Pugh affirms that the appropriate sections of the ERP will be amended to provide additional information about which organizations have responsibility for decontamination and backup support. Pugh Affidavit, ¶ 7.

Mr. Scott, who is the Emergency Management Coordinator, Emergency Services Director and Fire Marshal of Chatham County, will have responsibility for coordinating activities of organizations within Chatham County that have emergency response

³In admitting Contention 240, the Board also pointed out that the ERP identified both the Chatham County Department of Emergency Management and the Silo City Fire Department as having responsibility for monitoring at the shelters. August 3, 1984 Memorandum and Order, supra at 8-9 n.1. This discrepancy has been corrected in Revision 1 of the ERP which was issued subsequent to the Board's Order. Revision 1 states that the County Department of Emergency Management will furnish personnel for monitoring at the shelters. ERP (Rev. 1) at Part 2, Figure 6.

functions in the event of an accident at the Harris Plant. He was involved in the development of the Chatham County part of the Shearon Harris offsite emergency plan and is familiar with the responsibilities of Chatham County emergency response organizations under the plan. Scott Affidavit, ¶2. Mr. Scott identifies those organizations that will have primary responsibility for decontamination of evacuees at shelters located within Chatham County and those organizations that will provide backup support for decontamination. Local fire departments will have the primary responsibility for decontamination of evacuees. Which particular fire department is utilized will depend upon which shelter is opened. Mr. Scott identifies the particular fire department that has responsibility for decontamination at each of the shelters identified in the offsite emergency plan. Scott Affidavit, ¶4. The Chatham County Office of Emergency Services, headed by Mr. Scott, has responsibility for coordinating emergency activities, including decontamination. Scott Affidavit, ¶5.

Mr. Scott also identifies those organizations that have responsibility for providing support for decontamination in Chatham County. Again, which particular organization will provide backup support depends upon which shelters are opened. The particular organizations responsible for each shelter are identified in Mr. Scott's Affidavit. Scott Affidavit, ¶7.

Mr. Scott also describes the training that personnel in the fire departments and rescue squads with decontamination responsibilities have received and will receive. Scott Affidavit, ¶6. The fire departments and rescue squads with decontamination responsibilities constitute the "Radiological Response Teams" referred to in Figure 6 of the Chatham County part of the offsite emergency plan. Scott Affidavit, ¶4.

The attached Affidavit of Jesse T. Pugh, III identifies the emergency response organizations that will provide backup support for decontamination of evacuees in Wake, Lee, and Harnett Counties. Mr. Pugh, who is Director of the North Carolina Division of

Emergency Management (DEM), has been intimately involved in the development of the ERP. He is responsible for the State's planning for and response to all emergencies, including accidents at the Harris plant. Pugh Affidavit, ¶ 1.

According to Mr. Pugh, backup support for decontamination of evacuees in Harnett County shelters will be provided by local rescue squads and ambulance services. His Affidavit identifies the specific organizations that will provide such backup support. Assignments of these organizations to specific shelters will be made when Standard Operating Procedures are developed for Harnett County. Pugh Affidavit, ¶ 3. Fire departments and rescue squads will be responsible for providing backup support for decontamination of evacuees in Lee County. Which particular organizations provide backup support will depend upon which shelters are opened. Mr. Pugh identifies the particular organizations responsible for backup support at each shelter in Lee County. Pugh Affidavit, ¶ 4. According to Mr. Pugh, fire departments and rescue squads will also be responsible for providing backup support for decontamination of evacuees in Wake County. His Affidavit identifies the particular organizations that will be available to provide such support. They have not been assigned to specific shelters, but such an assignment will be made at the times support is needed. Pugh Affidavit, ¶ 5.

Radiation specialists and health physicists from Applicant Carolina Power & Light Company will also be available, if needed, to provide support for decontamination at shelters in each of the four counties within the plume exposure emergency planning zone. The State of North Carolina Radiation Protection Section may provide additional expert personnel to assist and consult in the event of more serious contamination problems at the shelters in each county. Pugh Affidavit, ¶ 6; Scott Affidavit, ¶ 7.

Mr. Pugh has also committed to amend appropriate sections of the ERP to provide additional information about which organizations have primary responsibility for decontamination of evacuees at the Chatham County shelters and which organizations have responsibility for backup support for decontamination at shelters within each of the

four counties. The ERP will be amended to specify the types of organizations with decontamination responsibilities. Particular organizations and assignments will be listed in the Standard Operating Procedures for each county. Pugh Affidavit, ¶ 7.

B. There is No Issue of Material Fact and Applicants are Entitled to a Decision in Their Favor As a Matter of Law on Eddleman Contention 240.

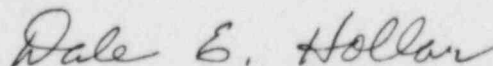
The questions raised by the Licensing Board in admitting this contention have been answered by Mr. Scott and Mr. Pugh. Their Affidavits provide authoritative clarification of the Harris ERP as to what agency of Chatham County is responsible for decontamination of evacuees and which emergency response organizations in each of the four counties in the EPZ have responsibility for backup support for decontamination. The ERP will be amended to provide more specific information in this respect. Accordingly, there is no issue of material fact relating to this contention that remains to be resolved. Applicants are entitled to a favorable decision on this Motion as a matter of law.

V. CONCLUSION

Based on the foregoing, Applicants respectfully request that this Motion for Summary Disposition of Eddleman Contention 240 be granted.

This 2d day of January, 1985.

Submitted by:



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